

**Representative Kay J. Christofferson** proposes the following substitute bill:

**TAX INCENTIVE REVISIONS**

2018 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Kay J. Christofferson**

Senate Sponsor: \_\_\_\_\_

Cosponsor: Daniel McCay

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**LONG TITLE**

**General Description:**

This bill modifies, eliminates, and limits certain corporate and individual business-related income tax credits and modifies a sales and use tax exemption.

**Highlighted Provisions:**

This bill:

- ▶ eliminates the corporate and individual motion picture and enterprise zone tax credits for a taxable year beginning on or after January 1, 2019;
- ▶ limits the Governor's Office of Economic Development's ability to enter new agreements or extend existing agreements for economic development tax credits;
- ▶ amends definitions;
- ▶ repeals the economic life provision of the sales and use tax exemption for the purchase or lease of machinery, equipment, or normal operating repair or replacement parts by a manufacturing facility, certain mining establishments, or a web search portal for use in certain business activities;
- ▶ creates a sales and use tax exemption for the purchase or lease by a manufacturing facility, certain mining establishments, or a web search portal of materials that are



25 used or consumed in certain business activities;

26       ▶ repeals obsolete sales and use tax provisions; and

27       ▶ makes technical changes.

28 **Money Appropriated in this Bill:**

29       None

30 **Other Special Clauses:**

31       This bill provides a special effective date.

32       This bill provides retrospective operation.

33 **Utah Code Sections Affected:**

34 AMENDS:

35       **59-7-159**, as enacted by Laws of Utah 2016, Third Special Session, Chapter 1

36       **59-7-614.2**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1

37       **59-7-614.5**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1

38       **59-7-614.10**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1

39       **59-10-137**, as enacted by Laws of Utah 2016, Third Special Session, Chapter 1

40       **59-10-1037**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1

41       **59-10-1107**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1

42       **59-10-1108**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1

43       **59-12-102**, as last amended by Laws of Utah 2017, Chapters 181, 382, and 422

44       **59-12-104**, as last amended by Laws of Utah 2017, Chapters 264, 268, and 429

45       **59-12-104.5**, as last amended by Laws of Utah 2017, Chapter 268

46       **63I-2-259**, as last amended by Laws of Utah 2017, Chapter 181

47       **63I-2-263**, as last amended by Laws of Utah 2017, First Special Session, Chapter 1

48       **63M-4-702**, as enacted by Laws of Utah 2017, Chapter 429

49       **63N-2-104**, as last amended by Laws of Utah 2017, Chapter 310

50       **63N-2-106**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1

51       **63N-2-213**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1

52       **63N-8-103**, as last amended by Laws of Utah 2016, Chapter 51

53 REPEALS:

54       **59-12-104.7**, as enacted by Laws of Utah 2017, Chapter 268

55       **63N-1-302**, as enacted by Laws of Utah 2017, Chapter 268

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **59-7-159** is amended to read:

**59-7-159. Review of credits allowed under this chapter.**

(1) As used in this section, "committee" means the Revenue and Taxation Interim Committee.

(2) (a) The committee shall review the tax credits described in this chapter as provided in Subsection (3) and make recommendations concerning whether the tax credits should be continued, modified, or repealed.

(b) In conducting the review required under Subsection (2)(a), the committee shall:

(i) schedule time on at least one committee agenda to conduct the review;

(ii) invite state agencies, individuals, and organizations concerned with the tax credit under review to provide testimony;

(iii) (A) invite the Governor's Office of Economic Development to present a summary and analysis of the information for each tax credit regarding which the Governor's Office of Economic Development is required to make a report under this chapter; and

(B) invite the Office of the Legislative Fiscal Analyst to present a summary and analysis of the information for each tax credit regarding which the Office of the Legislative Fiscal Analyst is required to make a report under this chapter;

(iv) ensure that the committee's recommendations described in this section include an evaluation of:

(A) the cost of the tax credit to the state;

(B) the purpose and effectiveness of the tax credit; and

(C) the extent to which the state benefits from the tax credit; and

(v) undertake other review efforts as determined by the committee chairs or as otherwise required by law.

(3) (a) On or before November 30, 2017, and every three years after 2017, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:

(i) Section [59-7-601](#);

(ii) Section [59-7-607](#);

87 (iii) Section 59-7-612; and

88 (iv) Section 59-7-614.1~~[-and]~~.

89 [~~(v) Section 59-7-614.5.~~]

90 (b) On or before November 30, 2018, and every three years after 2018, the committee  
91 shall conduct the review required under Subsection (2) of the tax credits allowed under the  
92 following sections:

93 (i) Section 59-7-609;

94 [~~(ii) Section 59-7-614.2;~~]

95 [~~(iii) Section 59-7-614.10;~~]

96 [~~(iv)~~] (ii) Section 59-7-617;

97 [~~(v)~~] (iii) Section 59-7-619; and

98 [~~(vi)~~] (iv) Section 59-7-620.

99 (c) On or before November 30, 2019, and every three years after 2019, the committee  
100 shall conduct the review required under Subsection (2) of the tax credits allowed under the  
101 following sections:

102 [~~(i) Section 59-7-605;~~]

103 [~~(ii)~~] (i) Section 59-7-610;

104 [~~(iii)~~] (ii) Section 59-7-614;

105 [~~(iv)~~] (iii) Section 59-7-614.7;

106 [~~(v)~~] (iv) Section 59-7-614.8; and

107 [~~(vi)~~] (v) Section 59-7-618.

108 (d) (i) In addition to the reviews described in this Subsection (3), the committee shall  
109 conduct a review of a tax credit described in this chapter that is enacted on or after January 1,  
110 2017.

111 (ii) The committee shall complete a review described in this Subsection (3)(d) three  
112 years after the effective date of the tax credit and every three years after the initial review date.

113 Section 2. Section 59-7-614.2 is amended to read:

114 **59-7-614.2. Refundable economic development tax credit.**

115 (1) As used in this section:

116 (a) "Business entity" means a taxpayer that meets the definition of "business entity" as  
117 that term is defined in Section 63N-2-103.

118 (b) "Community reinvestment agency" means the same as that term is defined in  
119 Section [17C-1-102](#).

120 (c) "Local government entity" means the same as that term is defined in Section  
121 [63N-2-103](#).

122 (d) "New incremental jobs" means the same as that term is defined in Section  
123 [63N-2-103](#).

124 (e) "New state revenues" means the same as that term is defined in Section [63N-2-103](#).

125 (f) "Office" means the Governor's Office of Economic Development created in Section  
126 [63N-1-201](#).

127 (2) [~~Subject to the other provisions of this section, a~~] A business entity, local  
128 government entity, or community reinvestment agency may claim a refundable tax credit for  
129 economic development as described in Section [63N-2-104](#).

130 (3) The tax credit under this section is the amount listed as the tax credit amount on the  
131 tax credit certificate that the office issues to the business entity, local government entity, or  
132 community reinvestment agency under Section [63N-2-105](#) for the taxable year.

133 (4) A community reinvestment agency may claim a tax credit under this section only if  
134 a local government entity assigns the tax credit to the community reinvestment agency in  
135 accordance with Section [63N-2-104](#).

136 (5) (a) In accordance with any rules prescribed by the commission under Subsection  
137 (5)(b), the commission shall make a refund to the following that claim a tax credit under this  
138 section:

139 (i) a local government entity;

140 (ii) a community reinvestment agency; or

141 (iii) a business entity, if the amount of the tax credit exceeds the business entity's tax  
142 liability for a taxable year.

143 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
144 commission may make rules providing procedures for making a refund to a business entity,  
145 local government entity, or community reinvestment agency as required by Subsection (5)(a).

146 [~~(6) (a) In accordance with Section [59-7-159](#), the Revenue and Taxation Interim  
147 Committee shall study the tax credit allowed by this section and make recommendations  
148 concerning whether the tax credit should be continued, modified, or repealed.]~~

149 ~~[(b) Except as provided in Subsection (6)(c), for purposes of the study required by this~~  
150 ~~Subsection (6), the office shall provide the following information, if available to the office, to~~  
151 ~~the Revenue and Taxation Interim Committee by electronic means:]~~

152 ~~[(i) the amount of tax credit that the office grants to each business entity, local~~  
153 ~~government entity, or community reinvestment agency for each calendar year;]~~

154 ~~[(ii) the criteria that the office uses in granting a tax credit;]~~

155 ~~[(iii) (A) for a business entity, the new state revenues generated by the business entity~~  
156 ~~for the calendar year; or]~~

157 ~~[(B) for a local government entity, regardless of whether the local government entity~~  
158 ~~assigns the tax credit in accordance with Section 63N-2-104, the new state revenues generated~~  
159 ~~as a result of a new commercial project within the local government entity for each calendar~~  
160 ~~year;]~~

161 ~~[(iv) estimates for each of the next three calendar years of the following:]~~

162 ~~[(A) the amount of tax credits that the office will grant;]~~

163 ~~[(B) the amount of new state revenues that will be generated; and]~~

164 ~~[(C) the number of new incremental jobs within the state that will be generated;]~~

165 ~~[(v) the information contained in the office's latest report under Section 63N-2-106;~~  
166 ~~and]~~

167 ~~[(vi) any other information that the Revenue and Taxation Interim Committee~~  
168 ~~requests.]~~

169 ~~[(c) (i) In providing the information described in Subsection (6)(b), the office shall~~  
170 ~~redact information that identifies a recipient of a tax credit under this section.]~~

171 ~~[(ii) If, notwithstanding the redactions made under Subsection (6)(c)(i), reporting the~~  
172 ~~information described in Subsection (6)(b) might disclose the identity of a recipient of a tax~~  
173 ~~credit, the office may file a request with the Revenue and Taxation Interim Committee to~~  
174 ~~provide the information described in Subsection (6)(b) in the aggregate for all entities and~~  
175 ~~agencies that receive the tax credit under this section.]~~

176 ~~[(d) The Revenue and Taxation Interim Committee shall ensure that the~~  
177 ~~recommendations described in Subsection (6)(a) include an evaluation of:]~~

178 ~~[(i) the cost of the tax credit to the state;]~~

179 ~~[(ii) the purpose and effectiveness of the tax credit; and]~~

180 ~~[(iii) the extent to which the state benefits from the tax credit.]~~

181 Section 3. Section **59-7-614.5** is amended to read:

182 **59-7-614.5. Refundable motion picture tax credit.**

183 (1) As used in this section:

184 (a) "Motion picture company" means a taxpayer that meets the definition of a "motion  
185 picture company" under Section [63N-8-102](#).

186 (b) "Office" means the Governor's Office of Economic Development created in Section  
187 [63N-1-201](#).

188 (c) "State-approved production" means the same as that term is defined in Section  
189 [63N-8-102](#).

190 (2) For a taxable year beginning on or after January 1, 2009, and beginning on or  
191 before December 31, 2018, a motion picture company may claim a refundable tax credit for a  
192 state-approved production.

193 (3) The tax credit under this section is the amount listed as the tax credit amount on the  
194 tax credit certificate that the office issues to a motion picture company under Section  
195 [63N-8-103](#) for the taxable year.

196 ~~[(4) (a) In accordance with any rules prescribed by the commission under Subsection~~  
197 ~~(4)(b), the commission shall make a refund to a motion picture company that claims a tax~~  
198 ~~credit under this section if the amount of the tax credit exceeds the motion picture company's~~  
199 ~~tax liability for a taxable year.]~~

200 ~~[(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~  
201 ~~the commission may make rules providing procedures for making a refund to a motion picture~~  
202 ~~company as required by Subsection (4)(a).]~~

203 ~~[(5) (a) In accordance with Section [59-7-159](#), the Revenue and Taxation Interim~~  
204 ~~Committee shall study the tax credit allowed by this section and make recommendations~~  
205 ~~concerning whether the tax credit should be continued, modified, or repealed.]~~

206 ~~[(b) (i) Except as provided in Subsection (5)(b)(ii), for purposes of the study required~~  
207 ~~by this Subsection (5), the office shall provide the following information, if available to the~~  
208 ~~office, to the Office of the Legislative Fiscal Analyst by electronic means:]~~

209 ~~[(A) the amount of tax credit that the office grants to each motion picture company for~~  
210 ~~each calendar year;]~~

211 ~~[(B) estimates of the amount of tax credit that the office will grant for each of the next~~  
212 ~~three calendar years;]~~

213 ~~[(C) the criteria that the office uses in granting the tax credit;]~~

214 ~~[(D) the dollars left in the state, as defined in Section 63N-8-102, by each motion~~  
215 ~~picture company for each calendar year;]~~

216 ~~[(E) the information contained in the office's latest report under Section 63N-8-105;~~  
217 ~~and]~~

218 ~~[(F) any other information that the Office of the Legislative Fiscal Analyst requests.]~~

219 ~~[(ii) (A) In providing the information described in Subsection (5)(b)(i), the office shall~~  
220 ~~redact information that identifies a recipient of a tax credit under this section.]~~

221 ~~[(B) If, notwithstanding the redactions made under Subsection (5)(b)(ii)(A), reporting~~  
222 ~~the information described in Subsection (5)(b)(i) might disclose the identity of a recipient of a~~  
223 ~~tax credit, the office may file a request with the Revenue and Taxation Interim Committee to~~  
224 ~~provide the information described in Subsection (5)(b)(i) in the aggregate for all motion picture~~  
225 ~~companies that receive the tax credit under this section.]~~

226 ~~[(c) As part of the study required by this Subsection (5), the Office of the Legislative~~  
227 ~~Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and~~  
228 ~~analysis of the information provided to the Office of the Legislative Fiscal Analyst by the~~  
229 ~~office under Subsection (5)(b).]~~

230 ~~[(d) The Revenue and Taxation Interim Committee shall ensure that the~~  
231 ~~recommendations described in Subsection (5)(a) include an evaluation of:]~~

232 ~~[(i) the cost of the tax credit to the state;]~~

233 ~~[(ii) the effectiveness of the tax credit, and]~~

234 ~~[(iii) the extent to which the state benefits from the tax credit.]~~

235 Section 4. Section **59-7-614.10** is amended to read:

236 **59-7-614.10. Nonrefundable enterprise zone tax credit.**

237 (1) As used in this section:

238 (a) "Business entity" means a corporation that meets the definition of "business entity"  
239 as that term is defined in Section 63N-2-202.

240 (b) "Office" means the Governor's Office of Economic Development created in Section  
241 63N-1-201.

242 (2) Subject to the provisions of this section, a business entity may claim a  
243 nonrefundable enterprise zone tax credit as described in Section [63N-2-213](#).

244 (3) The enterprise zone tax credit under this section is the amount listed as the tax  
245 credit amount on the tax credit certificate that the office issues to the business entity for the  
246 taxable year.

247 (4) (a) Except as provided in Subsection (4)(b), a business entity may only claim a tax  
248 credit under this section for a taxable year that begins on or before December 31, 2018.

249 ~~[(4)] (b)~~ A business entity may carry forward a tax credit under this section for a period  
250 that does not exceed the next three taxable years, if the amount of the tax credit exceeds the  
251 business entity's tax liability under this chapter for that taxable year.

252 (5) A business entity may not claim or carry forward a tax credit available under this  
253 ~~[part]~~ section for a taxable year during which the business entity has claimed the targeted  
254 business income tax credit available under Section [63N-2-305](#).

255 ~~[(6) (a) In accordance with Section [59-7-159](#), the Revenue and Taxation Interim~~  
256 ~~Committee shall study the tax credit allowed by this section and make recommendations~~  
257 ~~concerning whether the tax credit should be continued, modified, or repealed.]~~

258 ~~[(b) (i) Except as provided in Subsection (6)(b)(ii), for purposes of the study required~~  
259 ~~by this Subsection (6), the office shall provide by electronic means the following information~~  
260 ~~for each calendar year to the Office of the Legislative Fiscal Analyst:]~~

261 ~~[(A) the amount of tax credits provided in each development zone;]~~

262 ~~[(B) the number of new full-time employee positions reported to obtain tax credits in~~  
263 ~~each development zone;]~~

264 ~~[(C) the amount of tax credits awarded for rehabilitating a building in each~~  
265 ~~development zone;]~~

266 ~~[(D) the amount of tax credits awarded for investing in a plant, equipment, or other~~  
267 ~~depreciable property in each development zone;]~~

268 ~~[(E) the information related to the tax credit contained in the office's latest report under~~  
269 ~~Section [63N-1-301](#); and]~~

270 ~~[(F) any other information that the Office of the Legislative Fiscal Analyst requests.]~~

271 ~~[(ii) (A) In providing the information described in Subsection (6)(b)(i), the office shall~~  
272 ~~redact information that identifies a recipient of a tax credit under this section.]~~

273 ~~[(B) If, notwithstanding the redactions made under Subsection (6)(b)(ii)(A), reporting~~  
274 ~~the information described in Subsection (6)(b)(i) might disclose the identity of a recipient of a~~  
275 ~~tax credit, the office may file a request with the Revenue and Taxation Interim Committee to~~  
276 ~~provide the information described in Subsection (6)(b)(i) in the aggregate for all development~~  
277 ~~zones that receive the tax credit under this section.]~~

278 ~~[(c) As part of the study required by this Subsection (6), the Office of the Legislative~~  
279 ~~Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and~~  
280 ~~analysis of the information provided to the Office of the Legislative Fiscal Analyst by the~~  
281 ~~office under Subsection (6)(b).]~~

282 ~~[(d) The Revenue and Taxation Interim Committee shall ensure that the~~  
283 ~~recommendations described in Subsection (6)(a) include an evaluation of:]~~

284 ~~[(i) the cost of the tax credit to the state;]~~

285 ~~[(ii) the purpose and effectiveness of the tax credit; and]~~

286 ~~[(iii) the extent to which the state benefits from the tax credit.]~~

287 Section 5. Section **59-10-137** is amended to read:

288 **59-10-137. Review of credits allowed under this chapter.**

289 (1) As used in this section, "committee" means the Revenue and Taxation Interim  
290 Committee.

291 (2) (a) The committee shall review the tax credits described in this chapter as provided  
292 in Subsection (3) and make recommendations concerning whether the tax credits should be  
293 continued, modified, or repealed.

294 (b) In conducting the review required under Subsection (2)(a), the committee shall:

295 (i) schedule time on at least one committee agenda to conduct the review;

296 (ii) invite state agencies, individuals, and organizations concerned with the tax credit  
297 under review to provide testimony;

298 (iii) (A) invite the Governor's Office of Economic Development to present a summary  
299 and analysis of the information for each tax credit regarding which the Governor's Office of  
300 Economic Development is required to make a report under this chapter; and

301 (B) invite the Office of the Legislative Fiscal Analyst to present a summary and  
302 analysis of the information for each tax credit regarding which the Office of the Legislative  
303 Fiscal Analyst is required to make a report under this chapter;

304 (iv) ensure that the committee's recommendations described in this section include an  
305 evaluation of:

- 306 (A) the cost of the tax credit to the state;  
307 (B) the purpose and effectiveness of the tax credit; and  
308 (C) the extent to which the state benefits from the tax credit; and  
309 (v) undertake other review efforts as determined by the committee chairs or as  
310 otherwise required by law.

311 (3) (a) On or before November 30, 2017, and every three years after 2017, the  
312 committee shall conduct the review required under Subsection (2) of the tax credits allowed  
313 under the following sections:

- 314 (i) Section 59-10-1004;  
315 (ii) Section 59-10-1010;  
316 (iii) Section 59-10-1015;  
317 (iv) Section 59-10-1025;  
318 (v) Section 59-10-1027;  
319 (vi) Section 59-10-1031;  
320 (vii) Section 59-10-1032;  
321 (viii) Section 59-10-1035;  
322 (ix) Section 59-10-1104; and  
323 (x) Section 59-10-1105[~~;~~ and].  
324 [~~(xi) Section 59-10-1108;~~]

325 (b) On or before November 30, 2018, and every three years after 2018, the committee  
326 shall conduct the review required under Subsection (2) of the tax credits allowed under the  
327 following sections:

- 328 (i) Section 59-10-1005;  
329 (ii) Section 59-10-1006;  
330 (iii) Section 59-10-1012;  
331 [~~(iv) Section 59-10-1013;~~]  
332 [~~(v)] (iv) Section 59-10-1022;  
333 [~~(vi)] (v) Section 59-10-1023;  
334 [~~(vii)] (vi) Section 59-10-1028; and~~~~~~

335 [~~(viii)~~] (vii) Section 59-10-1034[;].

336 [~~(ix)~~ Section 59-10-1037; and]

337 [~~(x)~~ Section 59-10-1107.]

338 (c) On or before November 30, 2019, and every three years after 2019, the committee  
339 shall conduct the review required under Subsection (2) of the tax credits allowed under the  
340 following sections:

341 (i) Section 59-10-1007;

342 [~~(ii)~~ Section 59-10-1009;]

343 [~~(iii)~~] (ii) Section 59-10-1014;

344 [~~(iv)~~] (iii) Section 59-10-1017;

345 [~~(v)~~] (iv) Section 59-10-1018;

346 [~~(vi)~~] (v) Section 59-10-1019;

347 [~~(vii)~~] (vi) Section 59-10-1024;

348 [~~(viii)~~] (vii) Section 59-10-1029;

349 [~~(ix)~~] (viii) Section 59-10-1030;

350 [~~(x)~~] (ix) Section 59-10-1033;

351 [~~(xi)~~] (x) Section 59-10-1036;

352 [~~(xii)~~] (xi) Section 59-10-1106; and

353 [~~(xiii)~~] (xii) Section 59-10-1111.

354 (d) (i) In addition to the reviews described in this Subsection (3), the committee shall  
355 conduct a review of a tax credit described in this chapter that is enacted on or after January 1,  
356 2017.

357 (ii) The committee shall complete a review described in this Subsection (3)(d) three  
358 years after the effective date of the tax credit and every three years after the initial review date.

359 Section 6. Section 59-10-1037 is amended to read:

360 **59-10-1037. Nonrefundable enterprise zone tax credit.**

361 (1) As used in this section:

362 (a) "Business entity" means a claimant, estate, or trust that meets the definition of  
363 "business entity" as that term is defined in Section 63N-2-202.

364 (b) "Office" means the Governor's Office of Economic Development created in Section  
365 63N-1-201.

366 (2) Subject to the provisions of this section, a business entity may claim a  
367 nonrefundable enterprise zone tax credit as described in Section 63N-2-213.

368 (3) The enterprise zone tax credit under this section is the amount listed as the tax  
369 credit amount on the tax credit certificate that the office issues to the business entity for the  
370 taxable year.

371 (4) (a) Except as provided in Subsection (4)(b), a business entity may only claim a tax  
372 credit under this section for a taxable year that begins on or before December 31, 2018.

373 ~~[(4)] (b) A business entity may carry forward a tax credit under this section for a period~~  
374 ~~that does not exceed the next three taxable years, if the amount of the tax credit exceeds the~~  
375 ~~business entity's tax liability under this chapter for that taxable year.~~

376 (5) A business entity may not claim or carry forward a tax credit available under this  
377 ~~[part] section~~ for a taxable year during which the business entity has claimed the targeted  
378 business income tax credit available under Section 63N-2-305.

379 ~~[(6) (a) In accordance with Section 59-10-137, the Revenue and Taxation Interim~~  
380 ~~Committee shall study the tax credit allowed by this section and make recommendations~~  
381 ~~concerning whether the tax credit should be continued, modified, or repealed.]~~

382 ~~[(b) (i) Except as provided in Subsection (6)(b)(ii), for purposes of the study required~~  
383 ~~by this Subsection (6), the office shall provide by electronic means the following information,~~  
384 ~~if available to the office, for each calendar year to the Office of the Legislative Fiscal Analyst:]~~

385 ~~[(A) the amount of tax credits provided in each development zone;]~~

386 ~~[(B) the number of new full-time employee positions reported to obtain tax credits in~~  
387 ~~each development zone;]~~

388 ~~[(C) the amount of tax credits awarded for rehabilitating a building in each~~  
389 ~~development zone;]~~

390 ~~[(D) the amount of tax credits awarded for investing in a plant, equipment, or other~~  
391 ~~depreciable property in each development zone;]~~

392 ~~[(E) the information related to the tax credit contained in the office's latest report under~~  
393 ~~Section 63N-1-301; and]~~

394 ~~[(F) other information that the Office of the Legislative Fiscal Analyst requests.]~~

395 ~~[(ii) (A) In providing the information described in Subsection (6)(b)(i), the office shall~~  
396 ~~redact information that identifies a recipient of a tax credit under this section.]~~

397 ~~[(B) If, notwithstanding the redactions made under Subsection (6)(b)(ii)(A), reporting~~  
398 ~~the information described in Subsection (6)(b)(i) might disclose the identity of a recipient of a~~  
399 ~~tax credit, the office may file a request with the Revenue and Taxation Interim Committee to~~  
400 ~~provide the information described in Subsection (6)(b)(i) in the aggregate for all development~~  
401 ~~zones that receive the tax credit under this section.]~~

402 ~~[(c) As part of the study required by this Subsection (6), the Office of the Legislative~~  
403 ~~Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and~~  
404 ~~analysis of the information provided to the Office of the Legislative Fiscal Analyst by the~~  
405 ~~office under Subsection (6)(b).]~~

406 ~~[(d) The Revenue and Taxation Interim Committee shall ensure that the~~  
407 ~~recommendations described in Subsection (6)(a) include an evaluation of:]~~

408 ~~[(i) the cost of the tax credit to the state;]~~

409 ~~[(ii) the purpose and effectiveness of the tax credit; and]~~

410 ~~[(iii) the extent to which the state benefits from the tax credit.]~~

411 Section 7. Section **59-10-1107** is amended to read:

412 **59-10-1107. Refundable economic development tax credit.**

413 (1) As used in this section:

414 (a) "Business entity" means a claimant, estate, or trust that meets the definition of  
415 "business entity" as that term is defined in Section [63N-2-103](#).

416 (b) "New incremental jobs" means the same as that term is defined in Section  
417 [63N-2-103](#).

418 (c) "New state revenues" means the same as that term is defined in Section [63N-2-103](#).

419 (d) "Office" means the Governor's Office of Economic Development created in Section  
420 [63N-1-201](#).

421 (2) ~~[Subject to the other provisions of this section, a]~~ A business entity may claim a  
422 refundable tax credit for economic development as described in Section [63N-2-104](#).

423 (3) The tax credit under this section is the amount listed as the tax credit amount on the  
424 tax credit certificate that the office issues to the business entity under Section [63N-2-105](#) for  
425 the taxable year.

426 ~~[(4) (a) In accordance with any rules prescribed by the commission under Subsection~~  
427 ~~(4)(b), the commission shall make a refund to a business entity that claims a tax credit under~~

428 this section if the amount of the tax credit exceeds the business entity's tax liability for a  
429 taxable year.]

430 ~~[(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~  
431 ~~the commission may make rules providing procedures for making a refund to a business entity~~  
432 ~~as required by Subsection (4)(a).]~~

433 ~~[(5) (a) In accordance with Section 59-10-137, the Revenue and Taxation Interim~~  
434 ~~Committee shall study the tax credit allowed by this section and make recommendations~~  
435 ~~concerning whether the tax credit should be continued, modified, or repealed.]~~

436 ~~[(b) Except as provided in Subsection (5)(c), for purposes of the study required by this~~  
437 ~~Subsection (5), the office shall provide the following information, if available to the office, to~~  
438 ~~the Revenue and Taxation Interim Committee by electronic means:]~~

439 ~~[(i) the amount of tax credit the office grants to each taxpayer for each calendar year;]~~

440 ~~[(ii) the criteria the office uses in granting a tax credit;]~~

441 ~~[(iii) the new state revenues generated by each taxpayer for each calendar year;]~~

442 ~~[(iv) estimates for each of the next three calendar years of the following:]~~

443 ~~[(A) the amount of tax credits that the office will grant;]~~

444 ~~[(B) the amount of new state revenues that will be generated; and]~~

445 ~~[(C) the number of new incremental jobs within the state that will be generated;]~~

446 ~~[(v) the information contained in the office's latest report under Section 63N-2-106;~~

447 ~~and]~~

448 ~~[(vi) any other information that the Revenue and Taxation Interim Committee~~  
449 ~~requests.]~~

450 ~~[(c) (i) In providing the information described in Subsection (5)(b), the office shall~~  
451 ~~redact information that identifies a recipient of a tax credit under this section.]~~

452 ~~[(ii) If, notwithstanding the redactions made under Subsection (5)(c)(i), reporting the~~  
453 ~~information described in Subsection (5)(b) might disclose the identity of a recipient of a tax~~  
454 ~~credit, the office may file a request with the Revenue and Taxation Interim Committee to~~  
455 ~~provide the information described in Subsection (5)(b) in the aggregate for all taxpayers that~~  
456 ~~receive the tax credit under this section.]~~

457 ~~[(d) The Revenue and Taxation Interim Committee shall ensure that the~~  
458 ~~recommendations described in Subsection (5)(a) include an evaluation of:]~~

459 ~~[(i) the cost of the tax credit to the state;]~~  
460 ~~[(ii) the purpose and effectiveness of the tax credit; and]~~  
461 ~~[(iii) the extent to which the state benefits from the tax credit.]~~

462 Section 8. Section **59-10-1108** is amended to read:

463 **59-10-1108. Refundable motion picture tax credit.**

464 (1) As used in this section:

465 (a) "Motion picture company" means a claimant, estate, or trust that meets the  
466 definition of a "motion picture company" under Section [63N-8-102](#).

467 (b) "Office" means the Governor's Office of Economic Development created in Section  
468 [63N-1-201](#).

469 (c) "State-approved production" means the same as that term is defined in Section  
470 [63N-8-102](#).

471 (2) For a taxable year beginning on or after January 1, 2009, and beginning on or  
472 before December 31, 2018, a motion picture company may claim a refundable tax credit for a  
473 state-approved production.

474 (3) The tax credit under this section is the amount listed as the tax credit amount on the  
475 tax credit certificate that the office issues to a motion picture company under Section  
476 [63N-8-103](#) for the taxable year.

477 ~~[(4)(a) In accordance with any rules prescribed by the commission under Subsection~~  
478 ~~(4)(b), the commission shall make a refund to a motion picture company that claims a tax~~  
479 ~~credit under this section if the amount of the tax credit exceeds the motion picture company's~~  
480 ~~tax liability for the taxable year.]~~

481 ~~[(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~  
482 ~~the commission may make rules providing procedures for making a refund to a motion picture~~  
483 ~~company as required by Subsection (4)(a).]~~

484 ~~[(5)(a) In accordance with Section [59-10-137](#), the Revenue and Taxation Interim~~  
485 ~~Committee shall study the tax credit allowed by this section and make recommendations~~  
486 ~~concerning whether the tax credit should be continued, modified, or repealed.]~~

487 ~~[(b)(i) Except as provided in Subsection (5)(b)(ii), for purposes of the study required~~  
488 ~~by this Subsection (5), the office shall provide the following information, if available to the~~  
489 ~~office, to the Office of the Legislative Fiscal Analyst by electronic means:]~~

490 ~~[(A) the amount of tax credit the office grants to each taxpayer for each calendar year;]~~

491 ~~[(B) estimates of the amount of tax credit that the office will grant for each of the next~~  
492 ~~three calendar years;]~~

493 ~~[(C) the criteria the office uses in granting a tax credit;]~~

494 ~~[(D) the dollars left in the state, as defined in Section 63N-8-102, by each motion~~  
495 ~~picture company for each calendar year;]~~

496 ~~[(E) the information contained in the office's latest report under Section 63N-8-105;~~  
497 ~~and]~~

498 ~~[(F) any other information that the Office of the Legislative Fiscal Analyst requests.]~~

499 ~~[(ii) (A) In providing the information described in Subsection (5)(b)(i), the office shall~~  
500 ~~redact information that identifies a recipient of a tax credit under this section.]~~

501 ~~[(B) If, notwithstanding the redactions made under Subsection (5)(b)(ii)(A), reporting~~  
502 ~~the information described in Subsection (5)(b)(i) might disclose the identity of a recipient of a~~  
503 ~~tax credit, the office may file a request with the Revenue and Taxation Interim Committee to~~  
504 ~~provide the information described in Subsection (5)(b)(i) in the aggregate for all taxpayers that~~  
505 ~~receive the tax credit under this section.]~~

506 ~~[(c) As part of the study required by this Subsection (5), the Office of the Legislative~~  
507 ~~Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and~~  
508 ~~analysis of the information provided to the Office of the Legislative Fiscal Analyst by the~~  
509 ~~office under Subsection (5)(b).]~~

510 ~~[(d) The Revenue and Taxation Interim Committee shall ensure that the~~  
511 ~~recommendations described in Subsection (5)(a) include an evaluation of:]~~

512 ~~[(i) the cost of the tax credit to the state;]~~

513 ~~[(ii) the effectiveness of the tax credit; and]~~

514 ~~[(iii) the extent to which the state benefits from the tax credit.]~~

515 Section 9. Section **59-12-102** is amended to read:

516 **59-12-102. Definitions.**

517 As used in this chapter:

518 (1) "800 service" means a telecommunications service that:

519 (a) allows a caller to dial a toll-free number without incurring a charge for the call; and

520 (b) is typically marketed:

- 521 (i) under the name 800 toll-free calling;
- 522 (ii) under the name 855 toll-free calling;
- 523 (iii) under the name 866 toll-free calling;
- 524 (iv) under the name 877 toll-free calling;
- 525 (v) under the name 888 toll-free calling; or
- 526 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the
- 527 Federal Communications Commission.
- 528 (2) (a) "900 service" means an inbound toll telecommunications service that:
- 529 (i) a subscriber purchases;
- 530 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to
- 531 the subscriber's:
- 532 (A) prerecorded announcement; or
- 533 (B) live service; and
- 534 (iii) is typically marketed:
- 535 (A) under the name 900 service; or
- 536 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal
- 537 Communications Commission.
- 538 (b) "900 service" does not include a charge for:
- 539 (i) a collection service a seller of a telecommunications service provides to a
- 540 subscriber; or
- 541 (ii) the following a subscriber sells to the subscriber's customer:
- 542 (A) a product; or
- 543 (B) a service.
- 544 (3) (a) "Admission or user fees" includes season passes.
- 545 (b) "Admission or user fees" does not include annual membership dues to private
- 546 organizations.
- 547 (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
- 548 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
- 549 Agreement after November 12, 2002.
- 550 (5) "Agreement combined tax rate" means the sum of the tax rates:
- 551 (a) listed under Subsection (6); and

- 552 (b) that are imposed within a local taxing jurisdiction.
- 553 (6) "Agreement sales and use tax" means a tax imposed under:
- 554 (a) Subsection 59-12-103(2)(a)(i)(A);
- 555 (b) Subsection 59-12-103(2)(b)(i);
- 556 (c) Subsection 59-12-103(2)(c)(i);
- 557 (d) Subsection 59-12-103(2)(d)(i)(A)(I);
- 558 (e) Section 59-12-204;
- 559 (f) Section 59-12-401;
- 560 (g) Section 59-12-402;
- 561 (h) Section 59-12-402.1;
- 562 (i) Section 59-12-703;
- 563 (j) Section 59-12-802;
- 564 (k) Section 59-12-804;
- 565 (l) Section 59-12-1102;
- 566 (m) Section 59-12-1302;
- 567 (n) Section 59-12-1402;
- 568 (o) Section 59-12-1802;
- 569 (p) Section 59-12-2003;
- 570 (q) Section 59-12-2103;
- 571 (r) Section 59-12-2213;
- 572 (s) Section 59-12-2214;
- 573 (t) Section 59-12-2215;
- 574 (u) Section 59-12-2216;
- 575 (v) Section 59-12-2217;
- 576 (w) Section 59-12-2218; or
- 577 (x) Section 59-12-2219.
- 578 (7) "Aircraft" means the same as that term is defined in Section 72-10-102.
- 579 (8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 580 (a) except for:
- 581 (i) an airline as defined in Section 59-2-102; or
- 582 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"

583 includes a corporation that is qualified to do business but is not otherwise doing business in the  
584 state, of an airline; and

585 (b) that has the workers, expertise, and facilities to perform the following, regardless of  
586 whether the business entity performs the following in this state:

587 (i) check, diagnose, overhaul, and repair:

588 (A) an onboard system of a fixed wing turbine powered aircraft; and

589 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;

590 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft

591 engine;

592 (iii) perform at least the following maintenance on a fixed wing turbine powered

593 aircraft:

594 (A) an inspection;

595 (B) a repair, including a structural repair or modification;

596 (C) changing landing gear; and

597 (D) addressing issues related to an aging fixed wing turbine powered aircraft;

598 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and

599 completely apply new paint to the fixed wing turbine powered aircraft; and

600 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that

601 results in a change in the fixed wing turbine powered aircraft's certification requirements by the

602 authority that certifies the fixed wing turbine powered aircraft.

603 (9) "Alcoholic beverage" means a beverage that:

604 (a) is suitable for human consumption; and

605 (b) contains .5% or more alcohol by volume.

606 (10) "Alternative energy" means:

607 (a) biomass energy;

608 (b) geothermal energy;

609 (c) hydroelectric energy;

610 (d) solar energy;

611 (e) wind energy; or

612 (f) energy that is derived from:

613 (i) coal-to-liquids;

- 614 (ii) nuclear fuel;
- 615 (iii) oil-impregnated diatomaceous earth;
- 616 (iv) oil sands;
- 617 (v) oil shale;
- 618 (vi) petroleum coke; or
- 619 (vii) waste heat from:
  - 620 (A) an industrial facility; or
  - 621 (B) a power station in which an electric generator is driven through a process in which
  - 622 water is heated, turns into steam, and spins a steam turbine.

623 (11) (a) Subject to Subsection (11)(b), "alternative energy electricity production

624 facility" means a facility that:

- 625 (i) uses alternative energy to produce electricity; and
  - 626 (ii) has a production capacity of two megawatts or greater.
- 627 (b) A facility is an alternative energy electricity production facility regardless of
- 628 whether the facility is:
- 629 (i) connected to an electric grid; or
  - 630 (ii) located on the premises of an electricity consumer.

631 (12) (a) "Ancillary service" means a service associated with, or incidental to, the

632 provision of telecommunications service.

- 633 (b) "Ancillary service" includes:
- 634 (i) a conference bridging service;
  - 635 (ii) a detailed communications billing service;
  - 636 (iii) directory assistance;
  - 637 (iv) a vertical service; or
  - 638 (v) a voice mail service.

639 (13) "Area agency on aging" means the same as that term is defined in Section

640 [62A-3-101](#).

641 (14) "Assisted amusement device" means an amusement device, skill device, or ride

642 device that is started and stopped by an individual:

- 643 (a) who is not the purchaser or renter of the right to use or operate the amusement
- 644 device, skill device, or ride device; and

645 (b) at the direction of the seller of the right to use the amusement device, skill device,  
646 or ride device.

647 (15) "Assisted cleaning or washing of tangible personal property" means cleaning or  
648 washing of tangible personal property if the cleaning or washing labor is primarily performed  
649 by an individual:

650 (a) who is not the purchaser of the cleaning or washing of the tangible personal  
651 property; and

652 (b) at the direction of the seller of the cleaning or washing of the tangible personal  
653 property.

654 (16) "Authorized carrier" means:

655 (a) in the case of vehicles operated over public highways, the holder of credentials  
656 indicating that the vehicle is or will be operated pursuant to both the International Registration  
657 Plan and the International Fuel Tax Agreement;

658 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating  
659 certificate or air carrier's operating certificate; or

660 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling  
661 stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling  
662 stock in more than one state.

663 (17) (a) Except as provided in Subsection (17)(b), "biomass energy" means any of the  
664 following that is used as the primary source of energy to produce fuel or electricity:

665 (i) material from a plant or tree; or

666 (ii) other organic matter that is available on a renewable basis, including:

667 (A) slash and brush from forests and woodlands;

668 (B) animal waste;

669 (C) waste vegetable oil;

670 (D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of  
671 wastewater residuals, or through the conversion of a waste material through a nonincineration,  
672 thermal conversion process;

673 (E) aquatic plants; and

674 (F) agricultural products.

675 (b) "Biomass energy" does not include:

- 676 (i) black liquor; or
- 677 (ii) treated woods.
- 678 (18) (a) "Bundled transaction" means the sale of two or more items of tangible personal
- 679 property, products, or services if the tangible personal property, products, or services are:
  - 680 (i) distinct and identifiable; and
  - 681 (ii) sold for one nonitemized price.
- 682 (b) "Bundled transaction" does not include:
  - 683 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
  - 684 the basis of the selection by the purchaser of the items of tangible personal property included in
  - 685 the transaction;
    - 686 (ii) the sale of real property;
    - 687 (iii) the sale of services to real property;
    - 688 (iv) the retail sale of tangible personal property and a service if:
      - 689 (A) the tangible personal property:
        - 690 (I) is essential to the use of the service; and
        - 691 (II) is provided exclusively in connection with the service; and
      - 692 (B) the service is the true object of the transaction;
    - 693 (v) the retail sale of two services if:
      - 694 (A) one service is provided that is essential to the use or receipt of a second service;
      - 695 (B) the first service is provided exclusively in connection with the second service; and
      - 696 (C) the second service is the true object of the transaction;
    - 697 (vi) a transaction that includes tangible personal property or a product subject to
    - 698 taxation under this chapter and tangible personal property or a product that is not subject to
    - 699 taxation under this chapter if the:
      - 700 (A) seller's purchase price of the tangible personal property or product subject to
      - 701 taxation under this chapter is de minimis; or
      - 702 (B) seller's sales price of the tangible personal property or product subject to taxation
      - 703 under this chapter is de minimis; and
      - 704 (vii) the retail sale of tangible personal property that is not subject to taxation under
      - 705 this chapter and tangible personal property that is subject to taxation under this chapter if:
        - 706 (A) that retail sale includes:

- 707 (I) food and food ingredients;
- 708 (II) a drug;
- 709 (III) durable medical equipment;
- 710 (IV) mobility enhancing equipment;
- 711 (V) an over-the-counter drug;
- 712 (VI) a prosthetic device; or
- 713 (VII) a medical supply; and
- 714 (B) subject to Subsection (18)(f):

715 (I) the seller's purchase price of the tangible personal property subject to taxation under  
716 this chapter is 50% or less of the seller's total purchase price of that retail sale; or

717 (II) the seller's sales price of the tangible personal property subject to taxation under  
718 this chapter is 50% or less of the seller's total sales price of that retail sale.

719 (c) (i) For purposes of Subsection (18)(a)(i), tangible personal property, a product, or a  
720 service that is distinct and identifiable does not include:

721 (A) packaging that:

722 (I) accompanies the sale of the tangible personal property, product, or service; and

723 (II) is incidental or immaterial to the sale of the tangible personal property, product, or  
724 service;

725 (B) tangible personal property, a product, or a service provided free of charge with the  
726 purchase of another item of tangible personal property, a product, or a service; or

727 (C) an item of tangible personal property, a product, or a service included in the  
728 definition of "purchase price."

729 (ii) For purposes of Subsection (18)(c)(i)(B), an item of tangible personal property, a  
730 product, or a service is provided free of charge with the purchase of another item of tangible  
731 personal property, a product, or a service if the sales price of the purchased item of tangible  
732 personal property, product, or service does not vary depending on the inclusion of the tangible  
733 personal property, product, or service provided free of charge.

734 (d) (i) For purposes of Subsection (18)(a)(ii), property sold for one nonitemized price  
735 does not include a price that is separately identified by tangible personal property, product, or  
736 service on the following, regardless of whether the following is in paper format or electronic  
737 format:

- 738 (A) a binding sales document; or
- 739 (B) another supporting sales-related document that is available to a purchaser.
- 740 (ii) For purposes of Subsection (18)(d)(i), a binding sales document or another
- 741 supporting sales-related document that is available to a purchaser includes:
  - 742 (A) a bill of sale;
  - 743 (B) a contract;
  - 744 (C) an invoice;
  - 745 (D) a lease agreement;
  - 746 (E) a periodic notice of rates and services;
  - 747 (F) a price list;
  - 748 (G) a rate card;
  - 749 (H) a receipt; or
  - 750 (I) a service agreement.
- 751 (e) (i) For purposes of Subsection (18)(b)(vi), the sales price of tangible personal
- 752 property or a product subject to taxation under this chapter is de minimis if:
  - 753 (A) the seller's purchase price of the tangible personal property or product is 10% or
  - 754 less of the seller's total purchase price of the bundled transaction; or
  - 755 (B) the seller's sales price of the tangible personal property or product is 10% or less of
  - 756 the seller's total sales price of the bundled transaction.
- 757 (ii) For purposes of Subsection (18)(b)(vi), a seller:
  - 758 (A) shall use the seller's purchase price or the seller's sales price to determine if the
  - 759 purchase price or sales price of the tangible personal property or product subject to taxation
  - 760 under this chapter is de minimis; and
  - 761 (B) may not use a combination of the seller's purchase price and the seller's sales price
  - 762 to determine if the purchase price or sales price of the tangible personal property or product
  - 763 subject to taxation under this chapter is de minimis.
- 764 (iii) For purposes of Subsection (18)(b)(vi), a seller shall use the full term of a service
- 765 contract to determine if the sales price of tangible personal property or a product is de minimis.
- 766 (f) For purposes of Subsection (18)(b)(vii)(B), a seller may not use a combination of
- 767 the seller's purchase price and the seller's sales price to determine if tangible personal property
- 768 subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales

769 price of that retail sale.

770 (19) "Certified automated system" means software certified by the governing board of  
771 the agreement that:

772 (a) calculates the agreement sales and use tax imposed within a local taxing  
773 jurisdiction:

774 (i) on a transaction; and

775 (ii) in the states that are members of the agreement;

776 (b) determines the amount of agreement sales and use tax to remit to a state that is a  
777 member of the agreement; and

778 (c) maintains a record of the transaction described in Subsection (19)(a)(i).

779 (20) "Certified service provider" means an agent certified:

780 (a) by the governing board of the agreement; and

781 (b) to perform all of a seller's sales and use tax functions for an agreement sales and  
782 use tax other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's  
783 own purchases.

784 (21) (a) Subject to Subsection (21)(b), "clothing" means all human wearing apparel  
785 suitable for general use.

786 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
787 commission shall make rules:

788 (i) listing the items that constitute "clothing"; and

789 (ii) that are consistent with the list of items that constitute "clothing" under the  
790 agreement.

791 (22) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

792 (23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other  
793 fuels that does not constitute industrial use under Subsection (56) or residential use under  
794 Subsection (106).

795 (24) (a) "Common carrier" means a person engaged in or transacting the business of  
796 transporting passengers, freight, merchandise, or other property for hire within this state.

797 (b) (i) "Common carrier" does not include a person who, at the time the person is  
798 traveling to or from that person's place of employment, transports a passenger to or from the  
799 passenger's place of employment.

800 (ii) For purposes of Subsection (24)(b)(i), in accordance with Title 63G, Chapter 3,  
801 Utah Administrative Rulemaking Act, the commission may make rules defining what  
802 constitutes a person's place of employment.

803 (c) "Common carrier" does not include a person that provides transportation network  
804 services, as defined in Section 13-51-102.

805 (25) "Component part" includes:

806 (a) poultry, dairy, and other livestock feed, and their components;

807 (b) baling ties and twine used in the baling of hay and straw;

808 (c) fuel used for providing temperature control of orchards and commercial  
809 greenhouses doing a majority of their business in wholesale sales, and for providing power for  
810 off-highway type farm machinery; and

811 (d) feed, seeds, and seedlings.

812 (26) "Computer" means an electronic device that accepts information:

813 (a) (i) in digital form; or

814 (ii) in a form similar to digital form; and

815 (b) manipulates that information for a result based on a sequence of instructions.

816 (27) "Computer software" means a set of coded instructions designed to cause:

817 (a) a computer to perform a task; or

818 (b) automatic data processing equipment to perform a task.

819 (28) "Computer software maintenance contract" means a contract that obligates a seller  
820 of computer software to provide a customer with:

821 (a) future updates or upgrades to computer software;

822 (b) support services with respect to computer software; or

823 (c) a combination of Subsections (28)(a) and (b).

824 (29) (a) "Conference bridging service" means an ancillary service that links two or  
825 more participants of an audio conference call or video conference call.

826 (b) "Conference bridging service" may include providing a telephone number as part of  
827 the ancillary service described in Subsection (29)(a).

828 (c) "Conference bridging service" does not include a telecommunications service used  
829 to reach the ancillary service described in Subsection (29)(a).

830 (30) "Construction materials" means any tangible personal property that will be

831 converted into real property.

832 (31) "Delivered electronically" means delivered to a purchaser by means other than  
833 tangible storage media.

834 (32) (a) "Delivery charge" means a charge:

835 (i) by a seller of:

836 (A) tangible personal property;

837 (B) a product transferred electronically; or

838 (C) services; and

839 (ii) for preparation and delivery of the tangible personal property, product transferred  
840 electronically, or services described in Subsection (32)(a)(i) to a location designated by the  
841 purchaser.

842 (b) "Delivery charge" includes a charge for the following:

843 (i) transportation;

844 (ii) shipping;

845 (iii) postage;

846 (iv) handling;

847 (v) crating; or

848 (vi) packing.

849 (33) "Detailed telecommunications billing service" means an ancillary service of  
850 separately stating information pertaining to individual calls on a customer's billing statement.

851 (34) "Dietary supplement" means a product, other than tobacco, that:

852 (a) is intended to supplement the diet;

853 (b) contains one or more of the following dietary ingredients:

854 (i) a vitamin;

855 (ii) a mineral;

856 (iii) an herb or other botanical;

857 (iv) an amino acid;

858 (v) a dietary substance for use by humans to supplement the diet by increasing the total  
859 dietary intake; or

860 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient  
861 described in Subsections (34)(b)(i) through (v);

- 862 (c) (i) except as provided in Subsection (34)(c)(ii), is intended for ingestion in:
- 863 (A) tablet form;
- 864 (B) capsule form;
- 865 (C) powder form;
- 866 (D) softgel form;
- 867 (E) gelcap form; or
- 868 (F) liquid form; or
- 869 (ii) if the product is not intended for ingestion in a form described in Subsections
- 870 (34)(c)(i)(A) through (F), is not represented:
- 871 (A) as conventional food; and
- 872 (B) for use as a sole item of:
- 873 (I) a meal; or
- 874 (II) the diet; and
- 875 (d) is required to be labeled as a dietary supplement:
- 876 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 877 (ii) as required by 21 C.F.R. Sec. 101.36.
- 878 (35) "Digital audio-visual work" means a series of related images which, when shown
- 879 in succession, imparts an impression of motion, together with accompanying sounds, if any.
- 880 (36) (a) "Digital audio work" means a work that results from the fixation of a series of
- 881 musical, spoken, or other sounds.
- 882 (b) "Digital audio work" includes a ringtone.
- 883 (37) "Digital book" means a work that is generally recognized in the ordinary and usual
- 884 sense as a book.
- 885 (38) (a) "Direct mail" means printed material delivered or distributed by United States
- 886 mail or other delivery service:
- 887 (i) to:
- 888 (A) a mass audience; or
- 889 (B) addressees on a mailing list provided:
- 890 (I) by a purchaser of the mailing list; or
- 891 (II) at the discretion of the purchaser of the mailing list; and
- 892 (ii) if the cost of the printed material is not billed directly to the recipients.

893 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a  
894 purchaser to a seller of direct mail for inclusion in a package containing the printed material.

895 (c) "Direct mail" does not include multiple items of printed material delivered to a  
896 single address.

897 (39) "Directory assistance" means an ancillary service of providing:

898 (a) address information; or

899 (b) telephone number information.

900 (40) (a) "Disposable home medical equipment or supplies" means medical equipment  
901 or supplies that:

902 (i) cannot withstand repeated use; and

903 (ii) are purchased by, for, or on behalf of a person other than:

904 (A) a health care facility as defined in Section 26-21-2;

905 (B) a health care provider as defined in Section 78B-3-403;

906 (C) an office of a health care provider described in Subsection (40)(a)(ii)(B); or

907 (D) a person similar to a person described in Subsections (40)(a)(ii)(A) through (C).

908 (b) "Disposable home medical equipment or supplies" does not include:

909 (i) a drug;

910 (ii) durable medical equipment;

911 (iii) a hearing aid;

912 (iv) a hearing aid accessory;

913 (v) mobility enhancing equipment; or

914 (vi) tangible personal property used to correct impaired vision, including:

915 (A) eyeglasses; or

916 (B) contact lenses.

917 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
918 commission may by rule define what constitutes medical equipment or supplies.

919 [~~(41) "Drilling equipment manufacturer" means a facility:~~]

920 [~~(a) located in the state;~~]

921 [~~(b) with respect to which 51% or more of the manufacturing activities of the facility~~  
922 ~~consist of manufacturing component parts of drilling equipment;~~]

923 [~~(c) that uses pressure of 800,000 or more pounds per square inch as part of the~~]

924 manufacturing process; and]

925 [~~(d)~~ that uses a temperature of 2,000 or more degrees Fahrenheit as part of the

926 manufacturing process.]

927 [~~(42)~~] (41) (a) "Drug" means a compound, substance, or preparation, or a component of

928 a compound, substance, or preparation that is:

929 (i) recognized in:

930 (A) the official United States Pharmacopoeia;

931 (B) the official Homeopathic Pharmacopoeia of the United States;

932 (C) the official National Formulary; or

933 (D) a supplement to a publication listed in Subsections [~~(42)~~] (41)(a)(i)(A) through

934 (C);

935 (ii) intended for use in the:

936 (A) diagnosis of disease;

937 (B) cure of disease;

938 (C) mitigation of disease;

939 (D) treatment of disease; or

940 (E) prevention of disease; or

941 (iii) intended to affect:

942 (A) the structure of the body; or

943 (B) any function of the body.

944 (b) "Drug" does not include:

945 (i) food and food ingredients;

946 (ii) a dietary supplement;

947 (iii) an alcoholic beverage; or

948 (iv) a prosthetic device.

949 [~~(43)~~] (42) (a) Except as provided in Subsection [~~(43)~~] (42)(c), "durable medical

950 equipment" means equipment that:

951 (i) can withstand repeated use;

952 (ii) is primarily and customarily used to serve a medical purpose;

953 (iii) generally is not useful to a person in the absence of illness or injury; and

954 (iv) is not worn in or on the body.

955 (b) "Durable medical equipment" includes parts used in the repair or replacement of the  
956 equipment described in Subsection [~~(43)~~] (42)(a).

957 (c) "Durable medical equipment" does not include mobility enhancing equipment.

958 [~~(44)~~] (43) "Electronic" means:

959 (a) relating to technology; and

960 (b) having:

961 (i) electrical capabilities;

962 (ii) digital capabilities;

963 (iii) magnetic capabilities;

964 (iv) wireless capabilities;

965 (v) optical capabilities;

966 (vi) electromagnetic capabilities; or

967 (vii) capabilities similar to Subsections [~~(44)~~] (43)(b)(i) through (vi).

968 [~~(45)~~] (44) "Electronic financial payment service" means an establishment:

969 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and  
970 Clearinghouse Activities, of the 2012 North American Industry Classification System of the  
971 federal Executive Office of the President, Office of Management and Budget; and

972 (b) that performs electronic financial payment services.

973 [~~(46)~~] (45) "Employee" means the same as that term is defined in Section 59-10-401.

974 [~~(47)~~] (46) "Fixed guideway" means a public transit facility that uses and occupies:

975 (a) rail for the use of public transit; or

976 (b) a separate right-of-way for the use of public transit.

977 [~~(48)~~] (47) "Fixed wing turbine powered aircraft" means an aircraft that:

978 (a) is powered by turbine engines;

979 (b) operates on jet fuel; and

980 (c) has wings that are permanently attached to the fuselage of the aircraft.

981 [~~(49)~~] (48) "Fixed wireless service" means a telecommunications service that provides  
982 radio communication between fixed points.

983 [~~(50)~~] (49) (a) "Food and food ingredients" means substances:

984 (i) regardless of whether the substances are in:

985 (A) liquid form;

- 986 (B) concentrated form;
- 987 (C) solid form;
- 988 (D) frozen form;
- 989 (E) dried form; or
- 990 (F) dehydrated form; and
- 991 (ii) that are:
- 992 (A) sold for:
- 993 (I) ingestion by humans; or
- 994 (II) chewing by humans; and
- 995 (B) consumed for the substance's:
- 996 (I) taste; or
- 997 (II) nutritional value.
- 998 (b) "Food and food ingredients" includes an item described in Subsection [~~(91)~~
- 999 (90)(b)(iii).
- 1000 (c) "Food and food ingredients" does not include:
- 1001 (i) an alcoholic beverage;
- 1002 (ii) tobacco; or
- 1003 (iii) prepared food.
- 1004 [~~(51)~~] (50) (a) "Fundraising sales" means sales:
- 1005 (i) (A) made by a school; or
- 1006 (B) made by a school student;
- 1007 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 1008 materials, or provide transportation; and
- 1009 (iii) that are part of an officially sanctioned school activity.
- 1010 (b) For purposes of Subsection [~~(51)~~] (50)(a)(iii), "officially sanctioned school activity"
- 1011 means a school activity:
- 1012 (i) that is conducted in accordance with a formal policy adopted by the school or school
- 1013 district governing the authorization and supervision of fundraising activities;
- 1014 (ii) that does not directly or indirectly compensate an individual teacher or other
- 1015 educational personnel by direct payment, commissions, or payment in kind; and
- 1016 (iii) the net or gross revenues from which are deposited in a dedicated account

1017 controlled by the school or school district.

1018 ~~[(52)]~~ (51) "Geothermal energy" means energy contained in heat that continuously  
1019 flows outward from the earth that is used as the sole source of energy to produce electricity.

1020 ~~[(53)]~~ (52) "Governing board of the agreement" means the governing board of the  
1021 agreement that is:

1022 (a) authorized to administer the agreement; and

1023 (b) established in accordance with the agreement.

1024 ~~[(54)]~~ (53) (a) For purposes of Subsection 59-12-104(41), "governmental entity"  
1025 means:

1026 (i) the executive branch of the state, including all departments, institutions, boards,  
1027 divisions, bureaus, offices, commissions, and committees;

1028 (ii) the judicial branch of the state, including the courts, the Judicial Council, the  
1029 Office of the Court Administrator, and similar administrative units in the judicial branch;

1030 (iii) the legislative branch of the state, including the House of Representatives, the  
1031 Senate, the Legislative Printing Office, the Office of Legislative Research and General  
1032 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal  
1033 Analyst;

1034 (iv) the National Guard;

1035 (v) an independent entity as defined in Section 63E-1-102; or

1036 (vi) a political subdivision as defined in Section 17B-1-102.

1037 (b) "Governmental entity" does not include the state systems of public and higher  
1038 education, including:

1039 (i) a school;

1040 (ii) the State Board of Education;

1041 (iii) the State Board of Regents; or

1042 (iv) an institution of higher education described in Section 53B-1-102.

1043 ~~[(55)]~~ (54) "Hydroelectric energy" means water used as the sole source of energy to  
1044 produce electricity.

1045 ~~[(56)]~~ (55) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil,  
1046 or other fuels:

1047 (a) in mining or extraction of minerals;

- 1048 (b) in agricultural operations to produce an agricultural product up to the time of  
1049 harvest or placing the agricultural product into a storage facility, including:
- 1050 (i) commercial greenhouses;
  - 1051 (ii) irrigation pumps;
  - 1052 (iii) farm machinery;
  - 1053 (iv) implements of husbandry as defined in Section [41-1a-102](#) that are not registered  
1054 under Title 41, Chapter 1a, Part 2, Registration; and
  - 1055 (v) other farming activities;
- 1056 (c) in manufacturing tangible personal property at an establishment described in:
- 1057 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of  
1058 the federal Executive Office of the President, Office of Management and Budget; or
  - 1059 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North  
1060 American Industry Classification System of the federal Executive Office of the President,  
1061 Office of Management and Budget;
- 1062 (d) by a scrap recycler if:
- 1063 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process  
1064 one or more of the following items into prepared grades of processed materials for use in new  
1065 products:
    - 1066 (A) iron;
    - 1067 (B) steel;
    - 1068 (C) nonferrous metal;
    - 1069 (D) paper;
    - 1070 (E) glass;
    - 1071 (F) plastic;
    - 1072 (G) textile; or
    - 1073 (H) rubber; and
  - 1074 (ii) the new products under Subsection [~~56~~] (55)(d)(i) would otherwise be made with  
1075 nonrecycled materials; or
- 1076 (e) in producing a form of energy or steam described in Subsection [54-2-1\(3\)\(a\)](#) by a  
1077 cogeneration facility as defined in Section [54-2-1](#).
- 1078 [~~57~~] (56) (a) Except as provided in Subsection [~~57~~] (56)(b), "installation charge"

1079 means a charge for installing:

1080 (i) tangible personal property; or

1081 (ii) a product transferred electronically.

1082 (b) "Installation charge" does not include a charge for:

1083 (i) repairs or renovations of:

1084 (A) tangible personal property; or

1085 (B) a product transferred electronically; or

1086 (ii) attaching tangible personal property or a product transferred electronically:

1087 (A) to other tangible personal property; and

1088 (B) as part of a manufacturing or fabrication process.

1089 [~~58~~] (57) "Institution of higher education" means an institution of higher education

1090 listed in Section [53B-2-101](#).

1091 [~~59~~] (58) (a) "Lease" or "rental" means a transfer of possession or control of tangible  
1092 personal property or a product transferred electronically for:

1093 (i) (A) a fixed term; or

1094 (B) an indeterminate term; and

1095 (ii) consideration.

1096 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the

1097 amount of consideration may be increased or decreased by reference to the amount realized

1098 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue

1099 Code.

1100 (c) "Lease" or "rental" does not include:

1101 (i) a transfer of possession or control of property under a security agreement or

1102 deferred payment plan that requires the transfer of title upon completion of the required

1103 payments;

1104 (ii) a transfer of possession or control of property under an agreement that requires the

1105 transfer of title:

1106 (A) upon completion of required payments; and

1107 (B) if the payment of an option price does not exceed the greater of:

1108 (I) \$100; or

1109 (II) 1% of the total required payments; or

1110 (iii) providing tangible personal property along with an operator for a fixed period of  
1111 time or an indeterminate period of time if the operator is necessary for equipment to perform as  
1112 designed.

1113 (d) For purposes of Subsection [~~(59)~~] (58)(c)(iii), an operator is necessary for  
1114 equipment to perform as designed if the operator's duties exceed the:

- 1115 (i) set-up of tangible personal property;  
1116 (ii) maintenance of tangible personal property; or  
1117 (iii) inspection of tangible personal property.

1118 [~~(60)~~] (59) "Life science establishment" means an establishment in this state that is  
1119 classified under the following NAICS codes of the 2007 North American Industry  
1120 Classification System of the federal Executive Office of the President, Office of Management  
1121 and Budget:

1122 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

1123 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus  
1124 Manufacturing; or

1125 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

1126 [~~(61)~~] (60) "Life science research and development facility" means a facility owned,  
1127 leased, or rented by a life science establishment if research and development is performed in  
1128 51% or more of the total area of the facility.

1129 [~~(62)~~] (61) "Load and leave" means delivery to a purchaser by use of a tangible storage  
1130 media if the tangible storage media is not physically transferred to the purchaser.

1131 [~~(63)~~] (62) "Local taxing jurisdiction" means a:

- 1132 (a) county that is authorized to impose an agreement sales and use tax;  
1133 (b) city that is authorized to impose an agreement sales and use tax; or  
1134 (c) town that is authorized to impose an agreement sales and use tax.

1135 [~~(64)~~] (63) "Manufactured home" means the same as that term is defined in Section  
1136 [15A-1-302](#).

1137 [~~(65)~~] (64) "Manufacturing facility" means:

1138 (a) an establishment described in:

1139 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of  
1140 the federal Executive Office of the President, Office of Management and Budget; or

1141 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North  
1142 American Industry Classification System of the federal Executive Office of the President,  
1143 Office of Management and Budget;

1144 (b) a scrap recycler if:

1145 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process  
1146 one or more of the following items into prepared grades of processed materials for use in new  
1147 products:

1148 (A) iron;

1149 (B) steel;

1150 (C) nonferrous metal;

1151 (D) paper;

1152 (E) glass;

1153 (F) plastic;

1154 (G) textile; or

1155 (H) rubber; and

1156 (ii) the new products under Subsection ~~[(65)]~~ (64)(b)(i) would otherwise be made with  
1157 nonrecycled materials; or

1158 (c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is  
1159 placed in service on or after May 1, 2006.

1160 ~~[(66)]~~ (65) "Member of the immediate family of the producer" means a person who is  
1161 related to a producer described in Subsection 59-12-104(20)(a) as a:

1162 (a) child or stepchild, regardless of whether the child or stepchild is:

1163 (i) an adopted child or adopted stepchild; or

1164 (ii) a foster child or foster stepchild;

1165 (b) grandchild or stepgrandchild;

1166 (c) grandparent or stepgrandparent;

1167 (d) nephew or stepnephew;

1168 (e) niece or stepniece;

1169 (f) parent or stepparent;

1170 (g) sibling or stepsibling;

1171 (h) spouse;

1172 (i) person who is the spouse of a person described in Subsections ~~[(66)]~~ (65)(a) through  
1173 (g); or

1174 (j) person similar to a person described in Subsections ~~[(66)]~~ (65)(a) through (i) as  
1175 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah  
1176 Administrative Rulemaking Act.

1177 ~~[(67)]~~ (66) "Mobile home" means the same as that term is defined in Section  
1178 15A-1-302.

1179 ~~[(68)]~~ (67) "Mobile telecommunications service" is as defined in the Mobile  
1180 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

1181 ~~[(69)]~~ (68) (a) "Mobile wireless service" means a telecommunications service,  
1182 regardless of the technology used, if:

- 1183 (i) the origination point of the conveyance, routing, or transmission is not fixed;  
1184 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or  
1185 (iii) the origination point described in Subsection ~~[(69)]~~ (68)(a)(i) and the termination  
1186 point described in Subsection ~~[(69)]~~ (68)(a)(ii) are not fixed.

1187 (b) "Mobile wireless service" includes a telecommunications service that is provided  
1188 by a commercial mobile radio service provider.

1189 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1190 commission may by rule define "commercial mobile radio service provider."

1191 ~~[(70)]~~ (69) (a) Except as provided in Subsection ~~[(70)]~~ (69)(c), "mobility enhancing  
1192 equipment" means equipment that is:

1193 (i) primarily and customarily used to provide or increase the ability to move from one  
1194 place to another;

1195 (ii) appropriate for use in a:

1196 (A) home; or

1197 (B) motor vehicle; and

1198 (iii) not generally used by persons with normal mobility.

1199 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of  
1200 the equipment described in Subsection ~~[(70)]~~ (69)(a).

1201 (c) "Mobility enhancing equipment" does not include:

1202 (i) a motor vehicle;

1203 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor  
1204 vehicle manufacturer;

1205 (iii) durable medical equipment; or

1206 (iv) a prosthetic device.

1207 [~~(71)~~] (70) "Model 1 seller" means a seller registered under the agreement that has  
1208 selected a certified service provider as the seller's agent to perform all of the seller's sales and  
1209 use tax functions for agreement sales and use taxes other than the seller's obligation under  
1210 Section 59-12-124 to remit a tax on the seller's own purchases.

1211 [~~(72)~~] (71) "Model 2 seller" means a seller registered under the agreement that:

1212 (a) except as provided in Subsection [~~(72)~~] (71)(b), has selected a certified automated  
1213 system to perform the seller's sales tax functions for agreement sales and use taxes; and

1214 (b) retains responsibility for remitting all of the sales tax:

1215 (i) collected by the seller; and

1216 (ii) to the appropriate local taxing jurisdiction.

1217 [~~(73)~~] (72) (a) Subject to Subsection [~~(73)~~] (72)(b), "model 3 seller" means a seller  
1218 registered under the agreement that has:

1219 (i) sales in at least five states that are members of the agreement;

1220 (ii) total annual sales revenues of at least \$500,000,000;

1221 (iii) a proprietary system that calculates the amount of tax:

1222 (A) for an agreement sales and use tax; and

1223 (B) due to each local taxing jurisdiction; and

1224 (iv) entered into a performance agreement with the governing board of the agreement.

1225 (b) For purposes of Subsection [~~(73)~~] (72)(a), "model 3 seller" includes an affiliated  
1226 group of sellers using the same proprietary system.

1227 [~~(74)~~] (73) "Model 4 seller" means a seller that is registered under the agreement and is  
1228 not a model 1 seller, model 2 seller, or model 3 seller.

1229 [~~(75)~~] (74) "Modular home" means a modular unit as defined in Section 15A-1-302.

1230 [~~(76)~~] (75) "Motor vehicle" means the same as that term is defined in Section  
1231 41-1a-102.

1232 [~~(77)~~] (76) "Oil sands" means impregnated bituminous sands that:

1233 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with

1234 other hydrocarbons, or otherwise treated;  
1235 (b) yield mixtures of liquid hydrocarbon; and  
1236 (c) require further processing other than mechanical blending before becoming finished  
1237 petroleum products.

1238 ~~[(78)]~~ (77) "Oil shale" means a group of fine black to dark brown shales containing  
1239 kerogen material that yields petroleum upon heating and distillation.

1240 ~~[(79)]~~ (78) "Optional computer software maintenance contract" means a computer  
1241 software maintenance contract that a customer is not obligated to purchase as a condition to the  
1242 retail sale of computer software.

1243 ~~[(80)]~~ (79) (a) "Other fuels" means products that burn independently to produce heat or  
1244 energy.

1245 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible  
1246 personal property.

1247 ~~[(81)]~~ (80) (a) "Paging service" means a telecommunications service that provides  
1248 transmission of a coded radio signal for the purpose of activating a specific pager.

1249 (b) For purposes of Subsection ~~[(81)]~~ (80)(a), the transmission of a coded radio signal  
1250 includes a transmission by message or sound.

1251 ~~[(82)]~~ (81) "Pawnbroker" means the same as that term is defined in Section  
1252 [13-32a-102](#).

1253 ~~[(83)]~~ (82) "Pawn transaction" means the same as that term is defined in Section  
1254 [13-32a-102](#).

1255 ~~[(84)]~~ (83) (a) "Permanently attached to real property" means that for tangible personal  
1256 property attached to real property:

1257 (i) the attachment of the tangible personal property to the real property:

1258 (A) is essential to the use of the tangible personal property; and

1259 (B) suggests that the tangible personal property will remain attached to the real

1260 property in the same place over the useful life of the tangible personal property; or

1261 (ii) if the tangible personal property is detached from the real property, the detachment  
1262 would:

1263 (A) cause substantial damage to the tangible personal property; or

1264 (B) require substantial alteration or repair of the real property to which the tangible

1265 personal property is attached.

1266 (b) "Permanently attached to real property" includes:

1267 (i) the attachment of an accessory to the tangible personal property if the accessory is:

1268 (A) essential to the operation of the tangible personal property; and

1269 (B) attached only to facilitate the operation of the tangible personal property;

1270 (ii) a temporary detachment of tangible personal property from real property for a

1271 repair or renovation if the repair or renovation is performed where the tangible personal

1272 property and real property are located; or

1273 (iii) property attached to oil, gas, or water pipelines, except for the property listed in

1274 Subsection [~~84~~] (83)(c)(iii) or (iv).

1275 (c) "Permanently attached to real property" does not include:

1276 (i) the attachment of portable or movable tangible personal property to real property if

1277 that portable or movable tangible personal property is attached to real property only for:

1278 (A) convenience;

1279 (B) stability; or

1280 (C) for an obvious temporary purpose;

1281 (ii) the detachment of tangible personal property from real property except for the

1282 detachment described in Subsection [~~84~~] (83)(b)(ii);

1283 (iii) an attachment of the following tangible personal property to real property if the

1284 attachment to real property is only through a line that supplies water, electricity, gas,

1285 telecommunications, cable, or supplies a similar item as determined by the commission by rule

1286 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

1287 (A) a computer;

1288 (B) a telephone;

1289 (C) a television; or

1290 (D) tangible personal property similar to Subsections [~~84~~] (83)(c)(iii)(A) through (C)

1291 as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah

1292 Administrative Rulemaking Act; or

1293 (iv) an item listed in Subsection [~~125~~] (124)(c).

1294 [~~85~~] (84) "Person" includes any individual, firm, partnership, joint venture,

1295 association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county,

1296 city, municipality, district, or other local governmental entity of the state, or any group or  
1297 combination acting as a unit.

1298 ~~[(86)]~~ (85) "Place of primary use":

1299 (a) for telecommunications service other than mobile telecommunications service,  
1300 means the street address representative of where the customer's use of the telecommunications  
1301 service primarily occurs, which shall be:

1302 (i) the residential street address of the customer; or

1303 (ii) the primary business street address of the customer; or

1304 (b) for mobile telecommunications service, is as defined in the Mobile  
1305 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

1306 ~~[(87)]~~ (86) (a) "Postpaid calling service" means a telecommunications service a person  
1307 obtains by making a payment on a call-by-call basis:

1308 (i) through the use of a:

1309 (A) bank card;

1310 (B) credit card;

1311 (C) debit card; or

1312 (D) travel card; or

1313 (ii) by a charge made to a telephone number that is not associated with the origination  
1314 or termination of the telecommunications service.

1315 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling  
1316 service, that would be a prepaid wireless calling service if the service were exclusively a  
1317 telecommunications service.

1318 ~~[(88)]~~ (87) "Postproduction" means an activity related to the finishing or duplication of  
1319 a medium described in Subsection [59-12-104\(54\)\(a\)](#).

1320 ~~[(89)]~~ (88) "Prepaid calling service" means a telecommunications service:

1321 (a) that allows a purchaser access to telecommunications service that is exclusively  
1322 telecommunications service;

1323 (b) that:

1324 (i) is paid for in advance; and

1325 (ii) enables the origination of a call using an:

1326 (A) access number; or

- 1327 (B) authorization code;
- 1328 (c) that is dialed:
- 1329 (i) manually; or
- 1330 (ii) electronically; and
- 1331 (d) sold in predetermined units or dollars that decline:
- 1332 (i) by a known amount; and
- 1333 (ii) with use.
- 1334 [~~(90)~~] (89) "Prepaid wireless calling service" means a telecommunications service:
- 1335 (a) that provides the right to utilize:
- 1336 (i) mobile wireless service; and
- 1337 (ii) other service that is not a telecommunications service, including:
- 1338 (A) the download of a product transferred electronically;
- 1339 (B) a content service; or
- 1340 (C) an ancillary service;
- 1341 (b) that:
- 1342 (i) is paid for in advance; and
- 1343 (ii) enables the origination of a call using an:
- 1344 (A) access number; or
- 1345 (B) authorization code;
- 1346 (c) that is dialed:
- 1347 (i) manually; or
- 1348 (ii) electronically; and
- 1349 (d) sold in predetermined units or dollars that decline:
- 1350 (i) by a known amount; and
- 1351 (ii) with use.
- 1352 [~~(91)~~] (90) (a) "Prepared food" means:
- 1353 (i) food:
- 1354 (A) sold in a heated state; or
- 1355 (B) heated by a seller;
- 1356 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 1357 item; or

1358 (iii) except as provided in Subsection [~~(91)~~] (90)(c), food sold with an eating utensil  
1359 provided by the seller, including a:

- 1360 (A) plate;
- 1361 (B) knife;
- 1362 (C) fork;
- 1363 (D) spoon;
- 1364 (E) glass;
- 1365 (F) cup;
- 1366 (G) napkin; or
- 1367 (H) straw.

1368 (b) "Prepared food" does not include:

1369 (i) food that a seller only:

- 1370 (A) cuts;
- 1371 (B) repackages; or
- 1372 (C) pasteurizes; or

1373 (ii) (A) the following:

- 1374 (I) raw egg;
- 1375 (II) raw fish;
- 1376 (III) raw meat;
- 1377 (IV) raw poultry; or

1378 (V) a food containing an item described in Subsections [~~(91)~~] (90)(b)(ii)(A)(I) through  
1379 (IV); and

1380 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the  
1381 Food and Drug Administration's Food Code that a consumer cook the items described in  
1382 Subsection [~~(91)~~] (90)(b)(ii)(A) to prevent food borne illness; or

1383 (iii) the following if sold without eating utensils provided by the seller:

1384 (A) food and food ingredients sold by a seller if the seller's proper primary  
1385 classification under the 2002 North American Industry Classification System of the federal  
1386 Executive Office of the President, Office of Management and Budget, is manufacturing in  
1387 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla  
1388 Manufacturing;

- 1389 (B) food and food ingredients sold in an unheated state:
- 1390 (I) by weight or volume; and
- 1391 (II) as a single item; or
- 1392 (C) a bakery item, including:
- 1393 (I) a bagel;
- 1394 (II) a bar;
- 1395 (III) a biscuit;
- 1396 (IV) bread;
- 1397 (V) a bun;
- 1398 (VI) a cake;
- 1399 (VII) a cookie;
- 1400 (VIII) a croissant;
- 1401 (IX) a danish;
- 1402 (X) a donut;
- 1403 (XI) a muffin;
- 1404 (XII) a pastry;
- 1405 (XIII) a pie;
- 1406 (XIV) a roll;
- 1407 (XV) a tart;
- 1408 (XVI) a torte; or
- 1409 (XVII) a tortilla.
- 1410 (c) An eating utensil provided by the seller does not include the following used to
- 1411 transport the food:
- 1412 (i) a container; or
- 1413 (ii) packaging.
- 1414 [~~92~~] (91) "Prescription" means an order, formula, or recipe that is issued:
- 1415 (a) (i) orally;
- 1416 (ii) in writing;
- 1417 (iii) electronically; or
- 1418 (iv) by any other manner of transmission; and
- 1419 (b) by a licensed practitioner authorized by the laws of a state.

- 1420           ~~[(93)]~~ (92) (a) Except as provided in Subsection ~~[(93)]~~ (92)(b)(ii) or (iii), "prewritten  
1421 computer software" means computer software that is not designed and developed:  
1422           (i) by the author or other creator of the computer software; and  
1423           (ii) to the specifications of a specific purchaser.  
1424           (b) "Prewritten computer software" includes:  
1425           (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer  
1426 software is not designed and developed:  
1427           (A) by the author or other creator of the computer software; and  
1428           (B) to the specifications of a specific purchaser;  
1429           (ii) computer software designed and developed by the author or other creator of the  
1430 computer software to the specifications of a specific purchaser if the computer software is sold  
1431 to a person other than the purchaser; or  
1432           (iii) except as provided in Subsection ~~[(93)]~~ (92)(c), prewritten computer software or a  
1433 prewritten portion of prewritten computer software:  
1434           (A) that is modified or enhanced to any degree; and  
1435           (B) if the modification or enhancement described in Subsection ~~[(93)]~~ (92)(b)(iii)(A) is  
1436 designed and developed to the specifications of a specific purchaser.  
1437           (c) "Prewritten computer software" does not include a modification or enhancement  
1438 described in Subsection ~~[(93)]~~ (92)(b)(iii) if the charges for the modification or enhancement  
1439 are:  
1440           (i) reasonable; and  
1441           (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the  
1442 invoice or other statement of price provided to the purchaser at the time of sale or later, as  
1443 demonstrated by:  
1444           (A) the books and records the seller keeps at the time of the transaction in the regular  
1445 course of business, including books and records the seller keeps at the time of the transaction in  
1446 the regular course of business for nontax purposes;  
1447           (B) a preponderance of the facts and circumstances at the time of the transaction; and  
1448           (C) the understanding of all of the parties to the transaction.  
1449           ~~[(94)]~~ (93) (a) "Private communications service" means a telecommunications service:  
1450           (i) that entitles a customer to exclusive or priority use of one or more communications

1451 channels between or among termination points; and

1452 (ii) regardless of the manner in which the one or more communications channels are  
1453 connected.

1454 (b) "Private communications service" includes the following provided in connection  
1455 with the use of one or more communications channels:

1456 (i) an extension line;

1457 (ii) a station;

1458 (iii) switching capacity; or

1459 (iv) another associated service that is provided in connection with the use of one or  
1460 more communications channels as defined in Section 59-12-215.

1461 ~~[(95)]~~ (94) (a) Except as provided in Subsection ~~[(95)]~~ (94)(b), "product transferred  
1462 electronically" means a product transferred electronically that would be subject to a tax under  
1463 this chapter if that product was transferred in a manner other than electronically.

1464 (b) "Product transferred electronically" does not include:

1465 (i) an ancillary service;

1466 (ii) computer software; or

1467 (iii) a telecommunications service.

1468 ~~[(96)]~~ (95) (a) "Prosthetic device" means a device that is worn on or in the body to:

1469 (i) artificially replace a missing portion of the body;

1470 (ii) prevent or correct a physical deformity or physical malfunction; or

1471 (iii) support a weak or deformed portion of the body.

1472 (b) "Prosthetic device" includes:

1473 (i) parts used in the repairs or renovation of a prosthetic device;

1474 (ii) replacement parts for a prosthetic device;

1475 (iii) a dental prosthesis; or

1476 (iv) a hearing aid.

1477 (c) "Prosthetic device" does not include:

1478 (i) corrective eyeglasses; or

1479 (ii) contact lenses.

1480 ~~[(97)]~~ (96) (a) "Protective equipment" means an item:

1481 (i) for human wear; and

- 1482 (ii) that is:
- 1483 (A) designed as protection:
- 1484 (I) to the wearer against injury or disease; or
- 1485 (II) against damage or injury of other persons or property; and
- 1486 (B) not suitable for general use.
- 1487 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1488 commission shall make rules:
- 1489 (i) listing the items that constitute "protective equipment"; and
- 1490 (ii) that are consistent with the list of items that constitute "protective equipment"
- 1491 under the agreement.
- 1492 ~~[(98)]~~ (97) (a) For purposes of Subsection 59-12-104(41), "publication" means any
- 1493 written or printed matter, other than a photocopy:
- 1494 (i) regardless of:
- 1495 (A) characteristics;
- 1496 (B) copyright;
- 1497 (C) form;
- 1498 (D) format;
- 1499 (E) method of reproduction; or
- 1500 (F) source; and
- 1501 (ii) made available in printed or electronic format.
- 1502 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1503 commission may by rule define the term "photocopy."
- 1504 ~~[(99)]~~ (98) (a) "Purchase price" and "sales price" mean the total amount of
- 1505 consideration:
- 1506 (i) valued in money; and
- 1507 (ii) for which tangible personal property, a product transferred electronically, or
- 1508 services are:
- 1509 (A) sold;
- 1510 (B) leased; or
- 1511 (C) rented.
- 1512 (b) "Purchase price" and "sales price" include:

- 1513 (i) the seller's cost of the tangible personal property, a product transferred  
1514 electronically, or services sold;
- 1515 (ii) expenses of the seller, including:
- 1516 (A) the cost of materials used;
- 1517 (B) a labor cost;
- 1518 (C) a service cost;
- 1519 (D) interest;
- 1520 (E) a loss;
- 1521 (F) the cost of transportation to the seller; or
- 1522 (G) a tax imposed on the seller;
- 1523 (iii) a charge by the seller for any service necessary to complete the sale; or
- 1524 (iv) consideration a seller receives from a person other than the purchaser if:
- 1525 (A) (I) the seller actually receives consideration from a person other than the purchaser;
- 1526 and
- 1527 (II) the consideration described in Subsection [~~99~~] (98)(b)(iv)(A)(I) is directly related  
1528 to a price reduction or discount on the sale;
- 1529 (B) the seller has an obligation to pass the price reduction or discount through to the  
1530 purchaser;
- 1531 (C) the amount of the consideration attributable to the sale is fixed and determinable by  
1532 the seller at the time of the sale to the purchaser; and
- 1533 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the  
1534 seller to claim a price reduction or discount; and
- 1535 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,  
1536 coupon, or other documentation with the understanding that the person other than the seller  
1537 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
- 1538 (II) the purchaser identifies that purchaser to the seller as a member of a group or  
1539 organization allowed a price reduction or discount, except that a preferred customer card that is  
1540 available to any patron of a seller does not constitute membership in a group or organization  
1541 allowed a price reduction or discount; or
- 1542 (III) the price reduction or discount is identified as a third party price reduction or  
1543 discount on the:

- 1544 (Aa) invoice the purchaser receives; or  
1545 (Bb) certificate, coupon, or other documentation the purchaser presents.  
1546 (c) "Purchase price" and "sales price" do not include:  
1547 (i) a discount:  
1548 (A) in a form including:  
1549 (I) cash;  
1550 (II) term; or  
1551 (III) coupon;  
1552 (B) that is allowed by a seller;  
1553 (C) taken by a purchaser on a sale; and  
1554 (D) that is not reimbursed by a third party; or  
1555 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately  
1556 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of  
1557 sale or later, as demonstrated by the books and records the seller keeps at the time of the  
1558 transaction in the regular course of business, including books and records the seller keeps at the  
1559 time of the transaction in the regular course of business for nontax purposes, by a  
1560 preponderance of the facts and circumstances at the time of the transaction, and by the  
1561 understanding of all of the parties to the transaction:  
1562 (A) the following from credit extended on the sale of tangible personal property or  
1563 services:  
1564 (I) a carrying charge;  
1565 (II) a financing charge; or  
1566 (III) an interest charge;  
1567 (B) a delivery charge;  
1568 (C) an installation charge;  
1569 (D) a manufacturer rebate on a motor vehicle; or  
1570 (E) a tax or fee legally imposed directly on the consumer.  
1571 ~~[(100)]~~ (99) "Purchaser" means a person to whom:  
1572 (a) a sale of tangible personal property is made;  
1573 (b) a product is transferred electronically; or  
1574 (c) a service is furnished.

1575 [~~(101)~~] (100) "Qualifying enterprise data center" means an establishment that will:

1576 (a) own and operate a data center facility that will house a group of networked server  
1577 computers in one physical location in order to centralize the dissemination, management, and  
1578 storage of data and information;

1579 (b) be located in the state;

1580 (c) be a new operation constructed on or after July 1, 2016;

1581 (d) consist of one or more buildings that total 150,000 or more square feet;

1582 (e) be owned or leased by:

1583 (i) the establishment; or

1584 (ii) a person under common ownership, as defined in Section 59-7-101, of the  
1585 establishment; and

1586 (f) be located on one or more parcels of land that are owned or leased by:

1587 (i) the establishment; or

1588 (ii) a person under common ownership, as defined in Section 59-7-101, of the  
1589 establishment.

1590 [~~(102)~~] (101) "Regularly rented" means:

1591 (a) rented to a guest for value three or more times during a calendar year; or

1592 (b) advertised or held out to the public as a place that is regularly rented to guests for  
1593 value.

1594 [~~(103)~~] (102) "Rental" means the same as that term is defined in Subsection [~~(59)~~] (58).

1595 [~~(104)~~] (103) (a) Except as provided in Subsection [~~(104)~~] (103)(b), "repairs or  
1596 renovations of tangible personal property" means:

1597 (i) a repair or renovation of tangible personal property that is not permanently attached  
1598 to real property; or

1599 (ii) attaching tangible personal property or a product transferred electronically to other  
1600 tangible personal property or detaching tangible personal property or a product transferred  
1601 electronically from other tangible personal property if:

1602 (A) the other tangible personal property to which the tangible personal property or  
1603 product transferred electronically is attached or from which the tangible personal property or  
1604 product transferred electronically is detached is not permanently attached to real property; and

1605 (B) the attachment of tangible personal property or a product transferred electronically

1606 to other tangible personal property or detachment of tangible personal property or a product  
1607 transferred electronically from other tangible personal property is made in conjunction with a  
1608 repair or replacement of tangible personal property or a product transferred electronically.

1609 (b) "Repairs or renovations of tangible personal property" does not include:

1610 (i) attaching prewritten computer software to other tangible personal property if the  
1611 other tangible personal property to which the prewritten computer software is attached is not  
1612 permanently attached to real property; or

1613 (ii) detaching prewritten computer software from other tangible personal property if the  
1614 other tangible personal property from which the prewritten computer software is detached is  
1615 not permanently attached to real property.

1616 [~~(105)~~] (104) "Research and development" means the process of inquiry or  
1617 experimentation aimed at the discovery of facts, devices, technologies, or applications and the  
1618 process of preparing those devices, technologies, or applications for marketing.

1619 [~~(106)~~] (105) (a) "Residential telecommunications services" means a  
1620 telecommunications service or an ancillary service that is provided to an individual for personal  
1621 use:

1622 (i) at a residential address; or

1623 (ii) at an institution, including a nursing home or a school, if the telecommunications  
1624 service or ancillary service is provided to and paid for by the individual residing at the  
1625 institution rather than the institution.

1626 (b) For purposes of Subsection [~~(106)~~] (105)(a)(i), a residential address includes an:

1627 (i) apartment; or

1628 (ii) other individual dwelling unit.

1629 [~~(107)~~] (106) "Residential use" means the use in or around a home, apartment building,  
1630 sleeping quarters, and similar facilities or accommodations.

1631 [~~(108)~~] (107) (a) "Retailer" means any person engaged in a regularly organized  
1632 business in tangible personal property or any other taxable transaction under Subsection  
1633 59-12-103(1), and who is selling to the user or consumer and not for resale.

1634 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly  
1635 engaged in the business of selling to users or consumers within the state.

1636 [~~(109)~~] (108) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose

1637 other than:

1638 (a) resale;

1639 (b) sublease; or

1640 (c) subrent.

1641 [~~(110)~~] (109) (a) "Sale" means any transfer of title, exchange, or barter, conditional or  
1642 otherwise, in any manner, of tangible personal property or any other taxable transaction under  
1643 Subsection 59-12-103(1), for consideration.

1644 (b) "Sale" includes:

1645 (i) installment and credit sales;

1646 (ii) any closed transaction constituting a sale;

1647 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this  
1648 chapter;

1649 (iv) any transaction if the possession of property is transferred but the seller retains the  
1650 title as security for the payment of the price; and

1651 (v) any transaction under which right to possession, operation, or use of any article of  
1652 tangible personal property is granted under a lease or contract and the transfer of possession  
1653 would be taxable if an outright sale were made.

1654 [~~(111)~~] (110) "Sale at retail" means the same as that term is defined in Subsection  
1655 [~~(109)~~] (108).

1656 [~~(112)~~] (111) "Sale-leaseback transaction" means a transaction by which title to  
1657 tangible personal property or a product transferred electronically that is subject to a tax under  
1658 this chapter is transferred:

1659 (a) by a purchaser-lessee;

1660 (b) to a lessor;

1661 (c) for consideration; and

1662 (d) if:

1663 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase  
1664 of the tangible personal property or product transferred electronically;

1665 (ii) the sale of the tangible personal property or product transferred electronically to the  
1666 lessor is intended as a form of financing:

1667 (A) for the tangible personal property or product transferred electronically; and

1668 (B) to the purchaser-lessee; and  
1669 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee  
1670 is required to:

1671 (A) capitalize the tangible personal property or product transferred electronically for  
1672 financial reporting purposes; and

1673 (B) account for the lease payments as payments made under a financing arrangement.

1674 [~~(113)~~] (112) "Sales price" means the same as that term is defined in Subsection [~~(99)~~]  
1675 (98).

1676 [~~(114)~~] (113) (a) "Sales relating to schools" means the following sales by, amounts  
1677 paid to, or amounts charged by a school:

1678 (i) sales that are directly related to the school's educational functions or activities  
1679 including:

1680 (A) the sale of:

1681 (I) textbooks;

1682 (II) textbook fees;

1683 (III) laboratory fees;

1684 (IV) laboratory supplies; or

1685 (V) safety equipment;

1686 (B) the sale of a uniform, protective equipment, or sports or recreational equipment  
1687 that:

1688 (I) a student is specifically required to wear as a condition of participation in a  
1689 school-related event or school-related activity; and

1690 (II) is not readily adaptable to general or continued usage to the extent that it takes the  
1691 place of ordinary clothing;

1692 (C) sales of the following if the net or gross revenues generated by the sales are  
1693 deposited into a school district fund or school fund dedicated to school meals:

1694 (I) food and food ingredients; or

1695 (II) prepared food; or

1696 (D) transportation charges for official school activities; or

1697 (ii) amounts paid to or amounts charged by a school for admission to a school-related  
1698 event or school-related activity.

- 1699 (b) "Sales relating to schools" does not include:
- 1700 (i) bookstore sales of items that are not educational materials or supplies;
- 1701 (ii) except as provided in Subsection [~~(113)~~] (113)(a)(i)(B):
- 1702 (A) clothing;
- 1703 (B) clothing accessories or equipment;
- 1704 (C) protective equipment; or
- 1705 (D) sports or recreational equipment; or
- 1706 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 1707 event or school-related activity if the amounts paid or charged are passed through to a person:
- 1708 (A) other than a:
- 1709 (I) school;
- 1710 (II) nonprofit organization authorized by a school board or a governing body of a
- 1711 private school to organize and direct a competitive secondary school activity; or
- 1712 (III) nonprofit association authorized by a school board or a governing body of a
- 1713 private school to organize and direct a competitive secondary school activity; and
- 1714 (B) that is required to collect sales and use taxes under this chapter.
- 1715 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1716 commission may make rules defining the term "passed through."
- 1717 [~~(114)~~] (114) For purposes of this section and Section 59-12-104, "school":
- 1718 (a) means:
- 1719 (i) an elementary school or a secondary school that:
- 1720 (A) is a:
- 1721 (I) public school; or
- 1722 (II) private school; and
- 1723 (B) provides instruction for one or more grades kindergarten through 12; or
- 1724 (ii) a public school district; and
- 1725 (b) includes the Electronic High School as defined in Section 53A-15-1002.
- 1726 [~~(115)~~] (115) "Seller" means a person that makes a sale, lease, or rental of:
- 1727 (a) tangible personal property;
- 1728 (b) a product transferred electronically; or
- 1729 (c) a service.

1730            [~~(117)~~] (116) (a) "Semiconductor fabricating, processing, research, or development  
1731 materials" means tangible personal property or a product transferred electronically if the  
1732 tangible personal property or product transferred electronically is:

1733            (i) used primarily in the process of:

1734            (A) (I) manufacturing a semiconductor;

1735            (II) fabricating a semiconductor; or

1736            (III) research or development of a:

1737            (Aa) semiconductor; or

1738            (Bb) semiconductor manufacturing process; or

1739            (B) maintaining an environment suitable for a semiconductor; or

1740            (ii) consumed primarily in the process of:

1741            (A) (I) manufacturing a semiconductor;

1742            (II) fabricating a semiconductor; or

1743            (III) research or development of a:

1744            (Aa) semiconductor; or

1745            (Bb) semiconductor manufacturing process; or

1746            (B) maintaining an environment suitable for a semiconductor.

1747            (b) "Semiconductor fabricating, processing, research, or development materials"

1748 includes:

1749            (i) parts used in the repairs or renovations of tangible personal property or a product  
1750 transferred electronically described in Subsection [~~(117)~~] (116)(a); or

1751            (ii) a chemical, catalyst, or other material used to:

1752            (A) produce or induce in a semiconductor a:

1753            (I) chemical change; or

1754            (II) physical change;

1755            (B) remove impurities from a semiconductor; or

1756            (C) improve the marketable condition of a semiconductor.

1757            [~~(118)~~] (117) "Senior citizen center" means a facility having the primary purpose of  
1758 providing services to the aged as defined in Section [62A-3-101](#).

1759            [~~(119)~~] (118) (a) Subject to Subsections [~~(119)~~] (118)(b) and (c), "short-term lodging  
1760 consumable" means tangible personal property that:

- 1761 (i) a business that provides accommodations and services described in Subsection  
1762 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services  
1763 to a purchaser;
- 1764 (ii) is intended to be consumed by the purchaser; and  
1765 (iii) is:
- 1766 (A) included in the purchase price of the accommodations and services; and  
1767 (B) not separately stated on an invoice, bill of sale, or other similar document provided  
1768 to the purchaser.
- 1769 (b) "Short-term lodging consumable" includes:
- 1770 (i) a beverage;  
1771 (ii) a brush or comb;  
1772 (iii) a cosmetic;  
1773 (iv) a hair care product;  
1774 (v) lotion;  
1775 (vi) a magazine;  
1776 (vii) makeup;  
1777 (viii) a meal;  
1778 (ix) mouthwash;  
1779 (x) nail polish remover;  
1780 (xi) a newspaper;  
1781 (xii) a notepad;  
1782 (xiii) a pen;  
1783 (xiv) a pencil;  
1784 (xv) a razor;  
1785 (xvi) saline solution;  
1786 (xvii) a sewing kit;  
1787 (xviii) shaving cream;  
1788 (xix) a shoe shine kit;  
1789 (xx) a shower cap;  
1790 (xxi) a snack item;  
1791 (xxii) soap;

1792 (xxiii) toilet paper;

1793 (xxiv) a toothbrush;

1794 (xxv) toothpaste; or

1795 (xxvi) an item similar to Subsections [~~(119)~~] (118)(b)(i) through (xxv) as the

1796 commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah

1797 Administrative Rulemaking Act.

1798 (c) "Short-term lodging consumable" does not include:

1799 (i) tangible personal property that is cleaned or washed to allow the tangible personal

1800 property to be reused; or

1801 (ii) a product transferred electronically.

1802 [~~(120)~~] (119) "Simplified electronic return" means the electronic return:

1803 (a) described in Section 318(C) of the agreement; and

1804 (b) approved by the governing board of the agreement.

1805 [~~(121)~~] (120) "Solar energy" means the sun used as the sole source of energy for

1806 producing electricity.

1807 [~~(122)~~] (121) (a) "Sports or recreational equipment" means an item:

1808 (i) designed for human use; and

1809 (ii) that is:

1810 (A) worn in conjunction with:

1811 (I) an athletic activity; or

1812 (II) a recreational activity; and

1813 (B) not suitable for general use.

1814 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1815 commission shall make rules:

1816 (i) listing the items that constitute "sports or recreational equipment"; and

1817 (ii) that are consistent with the list of items that constitute "sports or recreational

1818 equipment" under the agreement.

1819 [~~(123)~~] (122) "State" means the state of Utah, its departments, and agencies.

1820 [~~(124)~~] (123) "Storage" means any keeping or retention of tangible personal property or

1821 any other taxable transaction under Subsection [59-12-103\(1\)](#), in this state for any purpose

1822 except sale in the regular course of business.

1823            [~~(125)~~] (124) (a) Except as provided in Subsection [~~(125)~~] (124)(d) or (e), "tangible  
1824 personal property" means personal property that:  
1825            (i) may be:  
1826            (A) seen;  
1827            (B) weighed;  
1828            (C) measured;  
1829            (D) felt; or  
1830            (E) touched; or  
1831            (ii) is in any manner perceptible to the senses.  
1832            (b) "Tangible personal property" includes:  
1833            (i) electricity;  
1834            (ii) water;  
1835            (iii) gas;  
1836            (iv) steam; or  
1837            (v) prewritten computer software, regardless of the manner in which the prewritten  
1838 computer software is transferred.  
1839            (c) "Tangible personal property" includes the following regardless of whether the item  
1840 is attached to real property:  
1841            (i) a dishwasher;  
1842            (ii) a dryer;  
1843            (iii) a freezer;  
1844            (iv) a microwave;  
1845            (v) a refrigerator;  
1846            (vi) a stove;  
1847            (vii) a washer; or  
1848            (viii) an item similar to Subsections [~~(125)~~] (124)(c)(i) through (vii) as determined by  
1849 the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
1850 Rulemaking Act.  
1851            (d) "Tangible personal property" does not include a product that is transferred  
1852 electronically.  
1853            (e) "Tangible personal property" does not include the following if attached to real

1854 property, regardless of whether the attachment to real property is only through a line that  
1855 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the  
1856 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
1857 Rulemaking Act:

- 1858 (i) a hot water heater;
- 1859 (ii) a water filtration system; or
- 1860 (iii) a water softener system.

1861 [~~126~~] (125) (a) "Telecommunications enabling or facilitating equipment, machinery,  
1862 or software" means an item listed in Subsection [~~126~~] (125)(b) if that item is purchased or  
1863 leased primarily to enable or facilitate one or more of the following to function:

- 1864 (i) telecommunications switching or routing equipment, machinery, or software; or
- 1865 (ii) telecommunications transmission equipment, machinery, or software.

1866 (b) The following apply to Subsection [~~126~~] (125)(a):

- 1867 (i) a pole;
- 1868 (ii) software;
- 1869 (iii) a supplementary power supply;
- 1870 (iv) temperature or environmental equipment or machinery;
- 1871 (v) test equipment;
- 1872 (vi) a tower; or
- 1873 (vii) equipment, machinery, or software that functions similarly to an item listed in

1874 Subsections [~~126~~] (125)(b)(i) through (vi) as determined by the commission by rule made in  
1875 accordance with Subsection [~~126~~] (125)(c).

1876 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1877 commission may by rule define what constitutes equipment, machinery, or software that  
1878 functions similarly to an item listed in Subsections [~~126~~] (125)(b)(i) through (vi).

1879 [~~127~~] (126) "Telecommunications equipment, machinery, or software required for  
1880 911 service" means equipment, machinery, or software that is required to comply with 47  
1881 C.F.R. Sec. 20.18.

1882 [~~128~~] (127) "Telecommunications maintenance or repair equipment, machinery, or  
1883 software" means equipment, machinery, or software purchased or leased primarily to maintain  
1884 or repair one or more of the following, regardless of whether the equipment, machinery, or

1885 software is purchased or leased as a spare part or as an upgrade or modification to one or more  
1886 of the following:

- 1887 (a) telecommunications enabling or facilitating equipment, machinery, or software;
- 1888 (b) telecommunications switching or routing equipment, machinery, or software; or
- 1889 (c) telecommunications transmission equipment, machinery, or software.

1890 [~~(129)~~] (128) (a) "Telecommunications service" means the electronic conveyance,  
1891 routing, or transmission of audio, data, video, voice, or any other information or signal to a  
1892 point, or among or between points.

1893 (b) "Telecommunications service" includes:

1894 (i) an electronic conveyance, routing, or transmission with respect to which a computer  
1895 processing application is used to act:

1896 (A) on the code, form, or protocol of the content;

1897 (B) for the purpose of electronic conveyance, routing, or transmission; and

1898 (C) regardless of whether the service:

1899 (I) is referred to as voice over Internet protocol service; or

1900 (II) is classified by the Federal Communications Commission as enhanced or value  
1901 added;

1902 (ii) an 800 service;

1903 (iii) a 900 service;

1904 (iv) a fixed wireless service;

1905 (v) a mobile wireless service;

1906 (vi) a postpaid calling service;

1907 (vii) a prepaid calling service;

1908 (viii) a prepaid wireless calling service; or

1909 (ix) a private communications service.

1910 (c) "Telecommunications service" does not include:

1911 (i) advertising, including directory advertising;

1912 (ii) an ancillary service;

1913 (iii) a billing and collection service provided to a third party;

1914 (iv) a data processing and information service if:

1915 (A) the data processing and information service allows data to be:

- 1916 (I) (Aa) acquired;
- 1917 (Bb) generated;
- 1918 (Cc) processed;
- 1919 (Dd) retrieved; or
- 1920 (Ee) stored; and
- 1921 (II) delivered by an electronic transmission to a purchaser; and
- 1922 (B) the purchaser's primary purpose for the underlying transaction is the processed data
- 1923 or information;
- 1924 (v) installation or maintenance of the following on a customer's premises:
- 1925 (A) equipment; or
- 1926 (B) wiring;
- 1927 (vi) Internet access service;
- 1928 (vii) a paging service;
- 1929 (viii) a product transferred electronically, including:
- 1930 (A) music;
- 1931 (B) reading material;
- 1932 (C) a ring tone;
- 1933 (D) software; or
- 1934 (E) video;
- 1935 (ix) a radio and television audio and video programming service:
- 1936 (A) regardless of the medium; and
- 1937 (B) including:
- 1938 (I) furnishing conveyance, routing, or transmission of a television audio and video
- 1939 programming service by a programming service provider;
- 1940 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
- 1941 (III) audio and video programming services delivered by a commercial mobile radio
- 1942 service provider as defined in 47 C.F.R. Sec. 20.3;
- 1943 (x) a value-added nonvoice data service; or
- 1944 (xi) tangible personal property.
- 1945 [~~(130)~~] (129) (a) "Telecommunications service provider" means a person that:
- 1946 (i) owns, controls, operates, or manages a telecommunications service; and

1947 (ii) engages in an activity described in Subsection [~~(130)~~] (129)(a)(i) for the shared use  
1948 with or resale to any person of the telecommunications service.

1949 (b) A person described in Subsection [~~(130)~~] (129)(a) is a telecommunications service  
1950 provider whether or not the Public Service Commission of Utah regulates:

1951 (i) that person; or

1952 (ii) the telecommunications service that the person owns, controls, operates, or  
1953 manages.

1954 [~~(131)~~] (130) (a) "Telecommunications switching or routing equipment, machinery, or  
1955 software" means an item listed in Subsection [~~(131)~~] (130)(b) if that item is purchased or  
1956 leased primarily for switching or routing:

1957 (i) an ancillary service;

1958 (ii) data communications;

1959 (iii) voice communications; or

1960 (iv) telecommunications service.

1961 (b) The following apply to Subsection [~~(131)~~] (130)(a):

1962 (i) a bridge;

1963 (ii) a computer;

1964 (iii) a cross connect;

1965 (iv) a modem;

1966 (v) a multiplexer;

1967 (vi) plug in circuitry;

1968 (vii) a router;

1969 (viii) software;

1970 (ix) a switch; or

1971 (x) equipment, machinery, or software that functions similarly to an item listed in

1972 Subsections [~~(131)~~] (130)(b)(i) through (ix) as determined by the commission by rule made in  
1973 accordance with Subsection [~~(131)~~] (130)(c).

1974 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1975 commission may by rule define what constitutes equipment, machinery, or software that  
1976 functions similarly to an item listed in Subsections [~~(131)~~] (130)(b)(i) through (ix).

1977 [~~(132)~~] (131) (a) "Telecommunications transmission equipment, machinery, or

1978 software" means an item listed in Subsection [~~(132)~~] (131)(b) if that item is purchased or  
1979 leased primarily for sending, receiving, or transporting:

- 1980 (i) an ancillary service;
- 1981 (ii) data communications;
- 1982 (iii) voice communications; or
- 1983 (iv) telecommunications service.

1984 (b) The following apply to Subsection [~~(132)~~] (131)(a):

- 1985 (i) an amplifier;
- 1986 (ii) a cable;
- 1987 (iii) a closure;
- 1988 (iv) a conduit;
- 1989 (v) a controller;
- 1990 (vi) a duplexer;
- 1991 (vii) a filter;
- 1992 (viii) an input device;
- 1993 (ix) an input/output device;
- 1994 (x) an insulator;
- 1995 (xi) microwave machinery or equipment;
- 1996 (xii) an oscillator;
- 1997 (xiii) an output device;
- 1998 (xiv) a pedestal;
- 1999 (xv) a power converter;
- 2000 (xvi) a power supply;
- 2001 (xvii) a radio channel;
- 2002 (xviii) a radio receiver;
- 2003 (xix) a radio transmitter;
- 2004 (xx) a repeater;
- 2005 (xxi) software;
- 2006 (xxii) a terminal;
- 2007 (xxiii) a timing unit;
- 2008 (xxiv) a transformer;

2009 (xxv) a wire; or  
2010 (xxvi) equipment, machinery, or software that functions similarly to an item listed in  
2011 Subsections [~~(132)~~] (131)(b)(i) through (xxv) as determined by the commission by rule made in  
2012 accordance with Subsection [~~(132)~~] (131)(c).

2013 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2014 commission may by rule define what constitutes equipment, machinery, or software that  
2015 functions similarly to an item listed in Subsections [~~(132)~~] (131)(b)(i) through (xxv).

2016 [~~(133)~~] (132) (a) "Textbook for a higher education course" means a textbook or other  
2017 printed material that is required for a course:

2018 (i) offered by an institution of higher education; and

2019 (ii) that the purchaser of the textbook or other printed material attends or will attend.

2020 (b) "Textbook for a higher education course" includes a textbook in electronic format.

2021 [~~(134)~~] (133) "Tobacco" means:

2022 (a) a cigarette;

2023 (b) a cigar;

2024 (c) chewing tobacco;

2025 (d) pipe tobacco; or

2026 (e) any other item that contains tobacco.

2027 [~~(135)~~] (134) "Unassisted amusement device" means an amusement device, skill  
2028 device, or ride device that is started and stopped by the purchaser or renter of the right to use or  
2029 operate the amusement device, skill device, or ride device.

2030 [~~(136)~~] (135) (a) "Use" means the exercise of any right or power over tangible personal  
2031 property, a product transferred electronically, or a service under Subsection [59-12-103\(1\)](#),  
2032 incident to the ownership or the leasing of that tangible personal property, product transferred  
2033 electronically, or service.

2034 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal  
2035 property, a product transferred electronically, or a service in the regular course of business and  
2036 held for resale.

2037 [~~(137)~~] (136) "Value-added nonvoice data service" means a service:

2038 (a) that otherwise meets the definition of a telecommunications service except that a  
2039 computer processing application is used to act primarily for a purpose other than conveyance,

2040 routing, or transmission; and

2041 (b) with respect to which a computer processing application is used to act on data or  
2042 information:

- 2043 (i) code;
- 2044 (ii) content;
- 2045 (iii) form; or
- 2046 (iv) protocol.

2047 ~~[(138)]~~ (137) (a) Subject to Subsection ~~[(138)]~~ (137)(b), "vehicle" means the following  
2048 that are required to be titled, registered, or titled and registered:

- 2049 (i) an aircraft as defined in Section 72-10-102;
- 2050 (ii) a vehicle as defined in Section 41-1a-102;
- 2051 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 2052 (iv) a vessel as defined in Section 41-1a-102.

2053 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- 2054 (i) a vehicle described in Subsection ~~[(138)]~~ (137)(a); or
- 2055 (ii) (A) a locomotive;
- 2056 (B) a freight car;
- 2057 (C) railroad work equipment; or
- 2058 (D) other railroad rolling stock.

2059 ~~[(139)]~~ (138) "Vehicle dealer" means a person engaged in the business of buying,  
2060 selling, or exchanging a vehicle as defined in Subsection ~~[(138)]~~ (137).

2061 ~~[(140)]~~ (139) (a) "Vertical service" means an ancillary service that:

- 2062 (i) is offered in connection with one or more telecommunications services; and
- 2063 (ii) offers an advanced calling feature that allows a customer to:
  - 2064 (A) identify a caller; and
  - 2065 (B) manage multiple calls and call connections.

2066 (b) "Vertical service" includes an ancillary service that allows a customer to manage a  
2067 conference bridging service.

2068 ~~[(141)]~~ (140) (a) "Voice mail service" means an ancillary service that enables a  
2069 customer to receive, send, or store a recorded message.

2070 (b) "Voice mail service" does not include a vertical service that a customer is required

2071 to have in order to utilize a voice mail service.

2072 ~~[(142)]~~ (141) (a) Except as provided in Subsection ~~[(142)]~~ (141)(b), "waste energy  
2073 facility" means a facility that generates electricity:

2074 (i) using as the primary source of energy waste materials that would be placed in a  
2075 landfill or refuse pit if it were not used to generate electricity, including:

2076 (A) tires;

2077 (B) waste coal;

2078 (C) oil shale; or

2079 (D) municipal solid waste; and

2080 (ii) in amounts greater than actually required for the operation of the facility.

2081 (b) "Waste energy facility" does not include a facility that incinerates:

2082 (i) hospital waste as defined in 40 C.F.R. 60.51c; or

2083 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

2084 ~~[(143)]~~ (142) "Watercraft" means a vessel as defined in Section 73-18-2.

2085 ~~[(144)]~~ (143) "Wind energy" means wind used as the sole source of energy to produce  
2086 electricity.

2087 ~~[(145)]~~ (144) "ZIP Code" means a Zoning Improvement Plan Code assigned to a  
2088 geographic location by the United States Postal Service.

2089 Section 10. Section **59-12-104** is amended to read:

2090 **59-12-104. Exemptions.**

2091 Exemptions from the taxes imposed by this chapter are as follows:

2092 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax  
2093 under Chapter 13, Motor and Special Fuel Tax Act;

2094 (2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political  
2095 subdivisions; however, this exemption does not apply to sales of:

2096 (a) construction materials except:

2097 (i) construction materials purchased by or on behalf of institutions of the public  
2098 education system as defined in Utah Constitution, Article X, Section 2, provided the  
2099 construction materials are clearly identified and segregated and installed or converted to real  
2100 property which is owned by institutions of the public education system; and

2101 (ii) construction materials purchased by the state, its institutions, or its political

2102 subdivisions which are installed or converted to real property by employees of the state, its  
 2103 institutions, or its political subdivisions; or

2104 (b) tangible personal property in connection with the construction, operation,  
 2105 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities  
 2106 providing additional project capacity, as defined in Section 11-13-103;

2107 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

2108 (i) the proceeds of each sale do not exceed \$1; and

2109 (ii) the seller or operator of the vending machine reports an amount equal to 150% of  
 2110 the cost of the item described in Subsection (3)(b) as goods consumed; and

2111 (b) Subsection (3)(a) applies to:

2112 (i) food and food ingredients; or

2113 (ii) prepared food;

2114 (4) (a) sales of the following to a commercial airline carrier for in-flight consumption:

2115 (i) alcoholic beverages;

2116 (ii) food and food ingredients; or

2117 (iii) prepared food;

2118 (b) sales of tangible personal property or a product transferred electronically:

2119 (i) to a passenger;

2120 (ii) by a commercial airline carrier; and

2121 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or

2122 (c) services related to Subsection (4)(a) or (b);

2123 ~~[(5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts~~  
 2124 ~~and equipment:]~~

2125 ~~[(A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002~~  
 2126 ~~North American Industry Classification System of the federal Executive Office of the~~  
 2127 ~~President, Office of Management and Budget; and]~~

2128 ~~[(H) for:]~~

2129 ~~[(Aa) installation in an aircraft, including services relating to the installation of parts or~~  
 2130 ~~equipment in the aircraft;]~~

2131 ~~[(Bb) renovation of an aircraft; or]~~

2132 ~~[(Cc) repair of an aircraft; or]~~

2133 ~~[(B) for installation in an aircraft operated by a common carrier in interstate or foreign~~  
2134 ~~commerce; or]~~

2135 ~~[(ii) beginning on October 1, 2008, sales of parts and equipment for installation in an~~  
2136 ~~aircraft operated by a common carrier in interstate or foreign commerce; and]~~

2137 ~~[(b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,~~  
2138 ~~a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a~~  
2139 ~~refund;]~~

2140 ~~[(i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;]~~

2141 ~~[(ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;]~~

2142 ~~[(iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for~~  
2143 ~~the sale prior to filing for the refund;]~~

2144 ~~[(iv) for sales and use taxes paid under this chapter on the sale;]~~

2145 ~~[(v) in accordance with Section 59-1-1410; and]~~

2146 ~~[(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410,~~  
2147 ~~if the person files for the refund on or before September 30, 2011;]~~

2148 (5) sales of parts and equipment for installation in an aircraft operated by a common  
2149 carrier in interstate or foreign commerce;

2150 (6) sales of commercials, motion picture films, prerecorded audio program tapes or  
2151 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture  
2152 exhibitor, distributor, or commercial television or radio broadcaster;

2153 (7) (a) except as provided in Subsection ~~[(88)]~~ (85) and subject to Subsection (7)(b),  
2154 sales of cleaning or washing of tangible personal property if the cleaning or washing of the  
2155 tangible personal property is not assisted cleaning or washing of tangible personal property;

2156 (b) if a seller that sells at the same business location assisted cleaning or washing of  
2157 tangible personal property and cleaning or washing of tangible personal property that is not  
2158 assisted cleaning or washing of tangible personal property, the exemption described in  
2159 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning  
2160 or washing of the tangible personal property; and

2161 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,  
2162 Utah Administrative Rulemaking Act, the commission may make rules:

2163 (i) governing the circumstances under which sales are at the same business location;

2164 and  
2165 (ii) establishing the procedures and requirements for a seller to separately account for  
2166 sales of assisted cleaning or washing of tangible personal property;  
2167 (8) sales made to or by religious or charitable institutions in the conduct of their regular  
2168 religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are  
2169 fulfilled;  
2170 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of  
2171 this state if the vehicle is:  
2172 (a) not registered in this state; and  
2173 (b) (i) not used in this state; or  
2174 (ii) used in this state:  
2175 (A) if the vehicle is not used to conduct business, for a time period that does not  
2176 exceed the longer of:  
2177 (I) 30 days in any calendar year; or  
2178 (II) the time period necessary to transport the vehicle to the borders of this state; or  
2179 (B) if the vehicle is used to conduct business, for the time period necessary to transport  
2180 the vehicle to the borders of this state;  
2181 (10) (a) amounts paid for an item described in Subsection (10)(b) if:  
2182 (i) the item is intended for human use; and  
2183 (ii) (A) a prescription was issued for the item; or  
2184 (B) the item was purchased by a hospital or other medical facility; and  
2185 (b) (i) Subsection (10)(a) applies to:  
2186 (A) a drug;  
2187 (B) a syringe; or  
2188 (C) a stoma supply; and  
2189 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2190 commission may by rule define the terms:  
2191 (A) "syringe"; or  
2192 (B) "stoma supply";  
2193 (11) purchases or leases exempt under Section 19-12-201;  
2194 (12) (a) sales of an item described in Subsection (12)(c) served by:

2195 (i) the following if the item described in Subsection (12)(c) is not available to the  
2196 general public:

2197 (A) a church; or  
2198 (B) a charitable institution;

2199 (ii) an institution of higher education if:

2200 (A) the item described in Subsection (12)(c) is not available to the general public; or  
2201 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan  
2202 offered by the institution of higher education; or

2203 (b) sales of an item described in Subsection (12)(c) provided for a patient by:

2204 (i) a medical facility; or  
2205 (ii) a nursing facility; and

2206 (c) Subsections (12)(a) and (b) apply to:

2207 (i) food and food ingredients;  
2208 (ii) prepared food; or  
2209 (iii) alcoholic beverages;

2210 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property  
2211 or a product transferred electronically by a person:

2212 (i) regardless of the number of transactions involving the sale of that tangible personal  
2213 property or product transferred electronically by that person; and

2214 (ii) not regularly engaged in the business of selling that type of tangible personal  
2215 property or product transferred electronically;

2216 (b) this Subsection (13) does not apply if:

2217 (i) the sale is one of a series of sales of a character to indicate that the person is  
2218 regularly engaged in the business of selling that type of tangible personal property or product  
2219 transferred electronically;

2220 (ii) the person holds that person out as regularly engaged in the business of selling that  
2221 type of tangible personal property or product transferred electronically;

2222 (iii) the person sells an item of tangible personal property or product transferred  
2223 electronically that the person purchased as a sale that is exempt under Subsection (25); or

2224 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of  
2225 this state in which case the tax is based upon:

2226 (A) the bill of sale or other written evidence of value of the vehicle or vessel being  
2227 sold; or

2228 (B) in the absence of a bill of sale or other written evidence of value, the fair market  
2229 value of the vehicle or vessel being sold at the time of the sale as determined by the  
2230 commission; and

2231 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2232 commission shall make rules establishing the circumstances under which:

2233 (i) a person is regularly engaged in the business of selling a type of tangible personal  
2234 property or product transferred electronically;

2235 (ii) a sale of tangible personal property or a product transferred electronically is one of  
2236 a series of sales of a character to indicate that a person is regularly engaged in the business of  
2237 selling that type of tangible personal property or product transferred electronically; or

2238 (iii) a person holds that person out as regularly engaged in the business of selling a type  
2239 of tangible personal property or product transferred electronically;

2240 (14) amounts paid or charged for a purchase or lease of machinery, equipment, ~~[or]~~  
2241 normal operating repair or replacement parts ~~[with an economic life of three or more years]~~, or  
2242 materials, except for office equipment or office supplies, by:

2243 (a) a manufacturing facility~~[, except as provided in Subsection (86),]~~ that:

2244 (i) is located in the state; and

2245 (ii) uses or consumes the machinery, equipment, ~~[or]~~ normal operating repair or  
2246 replacement parts, or materials:

2247 (A) in the manufacturing process to manufacture an item sold as tangible personal  
2248 property, as the commission may define that phrase in accordance with Title 63G, Chapter 3,  
2249 Utah Administrative Rulemaking Act; or

2250 (B) for a scrap recycler, to process an item sold as tangible personal property, as the  
2251 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah  
2252 Administrative Rulemaking Act;

2253 (b) an establishment, as the commission defines that term in accordance with Title 63G,  
2254 Chapter 3, Utah Administrative Rulemaking Act, that:

2255 (i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS  
2256 Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal

2257 Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the  
2258 2002 North American Industry Classification System of the federal Executive Office of the  
2259 President, Office of Management and Budget;

2260 (ii) is located in the state; and

2261 (iii) uses or consumes the machinery, equipment, [or] normal operating repair or  
2262 replacement parts, or materials in:

2263 (A) the production process to produce an item sold as tangible personal property, as the  
2264 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah  
2265 Administrative Rulemaking Act;

2266 (B) research and development, as the commission may define that phrase in accordance  
2267 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

2268 (C) transporting, storing, or managing tailings, overburden, or similar waste materials  
2269 produced from mining;

2270 (D) developing or maintaining a road, tunnel, excavation, or similar feature used in  
2271 mining; or

2272 (E) preventing, controlling, or reducing dust or other pollutants from mining; or

2273 (c) an establishment, as the commission defines that term in accordance with Title 63G,  
2274 Chapter 3, Utah Administrative Rulemaking Act, that:

2275 (i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North  
2276 American Industry Classification System of the federal Executive Office of the President,  
2277 Office of Management and Budget;

2278 (ii) is located in the state; and

2279 (iii) uses or consumes the machinery, equipment, [or] normal operating repair or  
2280 replacement parts, or materials in the operation of the web search portal;

2281 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

2282 (i) tooling;

2283 (ii) special tooling;

2284 (iii) support equipment;

2285 (iv) special test equipment; or

2286 (v) parts used in the repairs or renovations of tooling or equipment described in  
2287 Subsections (15)(a)(i) through (iv); and

2288 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

2289 (i) the tooling, equipment, or parts are used or consumed exclusively in the  
2290 performance of any aerospace or electronics industry contract with the United States  
2291 government or any subcontract under that contract; and

2292 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),  
2293 title to the tooling, equipment, or parts is vested in the United States government as evidenced  
2294 by:

2295 (A) a government identification tag placed on the tooling, equipment, or parts; or

2296 (B) listing on a government-approved property record if placing a government  
2297 identification tag on the tooling, equipment, or parts is impractical;

2298 (16) sales of newspapers or newspaper subscriptions;

2299 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a  
2300 product transferred electronically traded in as full or part payment of the purchase price, except  
2301 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,  
2302 trade-ins are limited to other vehicles only, and the tax is based upon:

2303 (i) the bill of sale or other written evidence of value of the vehicle being sold and the  
2304 vehicle being traded in; or

2305 (ii) in the absence of a bill of sale or other written evidence of value, the then existing  
2306 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the  
2307 commission; and

2308 (b) Subsection (17)(a) does not apply to the following items of tangible personal  
2309 property or products transferred electronically traded in as full or part payment of the purchase  
2310 price:

2311 (i) money;

2312 (ii) electricity;

2313 (iii) water;

2314 (iv) gas; or

2315 (v) steam;

2316 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property  
2317 or a product transferred electronically used or consumed primarily and directly in farming  
2318 operations, regardless of whether the tangible personal property or product transferred

2319 electronically:

2320 (A) becomes part of real estate; or

2321 (B) is installed by a<sup>[:]</sup> farmer, contractor, or subcontractor; or

2322 [~~(F)~~ farmer;]

2323 [~~(H)~~ contractor; or]

2324 [~~(H)~~ subcontractor; or]

2325 (ii) sales of parts used in the repairs or renovations of tangible personal property or a

2326 product transferred electronically if the tangible personal property or product transferred

2327 electronically is exempt under Subsection (18)(a)(i); and

2328 (b) amounts paid or charged for the following are subject to the taxes imposed by this

2329 chapter:

2330 (i) (A) subject to Subsection (18)(b)(i)(B), [~~the following~~] machinery, equipment,

2331 materials, or supplies if used in a manner that is incidental to farming<sup>[:]</sup>; and

2332 [~~(F)~~ machinery;]

2333 [~~(H)~~ equipment;]

2334 [~~(H)~~ materials; or]

2335 [~~(IV)~~ supplies; and]

2336 (B) tangible personal property that is considered to be used in a manner that is

2337 incidental to farming includes:

2338 (I) hand tools; or

2339 (II) maintenance and janitorial equipment and supplies;

2340 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product

2341 transferred electronically if the tangible personal property or product transferred electronically

2342 is used in an activity other than farming; and

2343 (B) tangible personal property or a product transferred electronically that is considered

2344 to be used in an activity other than farming includes:

2345 (I) office equipment and supplies; or

2346 (II) equipment and supplies used in:

2347 (Aa) the sale or distribution of farm products;

2348 (Bb) research; or

2349 (Cc) transportation; or

2350 (iii) a vehicle required to be registered by the laws of this state during the period  
2351 ending two years after the date of the vehicle's purchase;

2352 (19) sales of hay;

2353 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or  
2354 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or  
2355 garden, farm, or other agricultural produce is sold by:

2356 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other  
2357 agricultural produce;

2358 (b) an employee of the producer described in Subsection (20)(a); or

2359 (c) a member of the immediate family of the producer described in Subsection (20)(a);

2360 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued  
2361 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

2362 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,  
2363 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,  
2364 wholesaler, or retailer for use in packaging tangible personal property to be sold by that  
2365 manufacturer, processor, wholesaler, or retailer;

2366 (23) a product stored in the state for resale;

2367 (24) (a) purchases of a product if:

2368 (i) the product is:

2369 (A) purchased outside of this state;

2370 (B) brought into this state:

2371 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and

2372 (II) by a nonresident person who is not living or working in this state at the time of the  
2373 purchase;

2374 (C) used for the personal use or enjoyment of the nonresident person described in  
2375 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

2376 (D) not used in conducting business in this state; and

2377 (ii) for:

2378 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of  
2379 the product for a purpose for which the product is designed occurs outside of this state;

2380 (B) a boat, the boat is registered outside of this state; or

2381 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered  
2382 outside of this state;

2383 (b) the exemption provided for in Subsection (24)(a) does not apply to:

2384 (i) a lease or rental of a product; or

2385 (ii) a sale of a vehicle exempt under Subsection (33); and

2386 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for  
2387 purposes of Subsection (24)(a), the commission may by rule define what constitutes the  
2388 following:

2389 (i) conducting business in this state if that phrase has the same meaning in this  
2390 Subsection (24) as in Subsection (63);

2391 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)  
2392 as in Subsection (63); or

2393 (iii) a purpose for which a product is designed if that phrase has the same meaning in  
2394 this Subsection (24) as in Subsection (63);

2395 (25) a product purchased for resale in this state, in the regular course of business, either  
2396 in its original form or as an ingredient or component part of a manufactured or compounded  
2397 product;

2398 (26) a product upon which a sales or use tax was paid to some other state, or one of its  
2399 subdivisions, except that the state shall be paid any difference between the tax paid and the tax  
2400 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if  
2401 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax  
2402 Act;

2403 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a  
2404 person for use in compounding a service taxable under the subsections;

2405 (28) purchases made in accordance with the special supplemental nutrition program for  
2406 women, infants, and children established in 42 U.S.C. Sec. 1786;

2407 (29) sales or leases of rolls, rollers, refractory brick, electric motors, or other  
2408 replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code  
2409 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of  
2410 the President, Office of Management and Budget;

2411 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State

- 2412 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:
- 2413 (a) not registered in this state; and
- 2414 (b) (i) not used in this state; or
- 2415 (ii) used in this state:
- 2416 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a
- 2417 time period that does not exceed the longer of:
- 2418 (I) 30 days in any calendar year; or
- 2419 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to
- 2420 the borders of this state; or
- 2421 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time
- 2422 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this
- 2423 state;
- 2424 (31) sales of aircraft manufactured in Utah;
- 2425 (32) amounts paid for the purchase of telecommunications service for purposes of
- 2426 providing telecommunications service;
- 2427 (33) sales, leases, or uses of the following:
- 2428 (a) a vehicle by an authorized carrier; or
- 2429 (b) tangible personal property that is installed on a vehicle:
- 2430 (i) sold or leased to or used by an authorized carrier; and
- 2431 (ii) before the vehicle is placed in service for the first time;
- 2432 (34) (a) 45% of the sales price of any new manufactured home; and
- 2433 (b) 100% of the sales price of any used manufactured home;
- 2434 (35) sales relating to schools and fundraising sales;
- 2435 (36) sales or rentals of durable medical equipment if:
- 2436 (a) a person presents a prescription for the durable medical equipment; and
- 2437 (b) the durable medical equipment is used for home use only;
- 2438 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
- 2439 Section [72-11-102](#); and
- 2440 (b) the commission shall by rule determine the method for calculating sales exempt
- 2441 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
- 2442 (38) sales to a ski resort of:

- 2443 (a) snowmaking equipment;
- 2444 (b) ski slope grooming equipment;
- 2445 (c) passenger ropeways as defined in Section 72-11-102; or
- 2446 (d) parts used in the repairs or renovations of equipment or passenger ropeways
- 2447 described in Subsections (38)(a) through (c);
- 2448 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
- 2449 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
- 2450 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
- 2451 59-12-102;
- 2452 (b) if a seller that sells or rents at the same business location the right to use or operate
- 2453 for amusement, entertainment, or recreation one or more unassisted amusement devices and
- 2454 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
- 2455 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
- 2456 amusement, entertainment, or recreation for the assisted amusement devices; and
- 2457 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,
- 2458 Utah Administrative Rulemaking Act, the commission may make rules:
- 2459 (i) governing the circumstances under which sales are at the same business location;
- 2460 and
- 2461 (ii) establishing the procedures and requirements for a seller to separately account for
- 2462 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for
- 2463 assisted amusement devices;
- 2464 (41) (a) sales of photocopies by:
- 2465 (i) a governmental entity; or
- 2466 (ii) an entity within the state system of public education, including:
- 2467 (A) a school; or
- 2468 (B) the State Board of Education; or
- 2469 (b) sales of publications by a governmental entity;
- 2470 (42) amounts paid for admission to an athletic event at an institution of higher
- 2471 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
- 2472 20 U.S.C. Sec. 1681 et seq.;
- 2473 (43) (a) sales made to or by:

- 2474 (i) an area agency on aging; or
- 2475 (ii) a senior citizen center owned by a county, city, or town; or
- 2476 (b) sales made by a senior citizen center that contracts with an area agency on aging;
- 2477 (44) sales or leases of semiconductor fabricating, processing, research, or development
- 2478 materials regardless of whether the semiconductor fabricating, processing, research, or
- 2479 development materials:
- 2480 (a) actually come into contact with a semiconductor; or
- 2481 (b) ultimately become incorporated into real property;
- 2482 (45) an amount paid by or charged to a purchaser for accommodations and services
- 2483 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section
- 2484 59-12-104.2;
- 2485 (46) [~~beginning on September 1, 2001,~~] the lease or use of a vehicle issued a temporary
- 2486 sports event registration certificate in accordance with Section 41-3-306 for the event period
- 2487 specified on the temporary sports event registration certificate;
- 2488 (47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff
- 2489 adopted by the Public Service Commission only for purchase of electricity produced from a
- 2490 new alternative energy source built after January 1, 2016, as designated in the tariff by the
- 2491 Public Service Commission;
- 2492 (b) for a residential use customer only, the exemption under Subsection (47)(a) applies
- 2493 only to the portion of the tariff rate a customer pays under the tariff described in Subsection
- 2494 (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the
- 2495 customer would have paid absent the tariff;
- 2496 (48) sales or rentals of mobility enhancing equipment if a person presents a
- 2497 prescription for the mobility enhancing equipment;
- 2498 (49) sales of water in a:
- 2499 (a) pipe;
- 2500 (b) conduit;
- 2501 (c) ditch; or
- 2502 (d) reservoir;
- 2503 (50) sales of currency or coins that constitute legal tender of a state, the United States,
- 2504 or a foreign nation;

- 2505 (51) (a) sales of an item described in Subsection (51)(b) if the item:
- 2506 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and
- 2507 (ii) has a gold, silver, or platinum content of 50% or more; and
- 2508 (b) Subsection (51)(a) applies to a gold, silver, or platinum:
- 2509 (i) ingot;
- 2510 (ii) bar;
- 2511 (iii) medallion; or
- 2512 (iv) decorative coin;
- 2513 (52) amounts paid on a sale-leaseback transaction;
- 2514 (53) sales of a prosthetic device:
- 2515 (a) for use on or in a human; and
- 2516 (b) (i) for which a prescription is required; or
- 2517 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
- 2518 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of
- 2519 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery
- 2520 or equipment is primarily used in the production or postproduction of the following media for
- 2521 commercial distribution:
- 2522 (i) a motion picture;
- 2523 (ii) a television program;
- 2524 (iii) a movie made for television;
- 2525 (iv) a music video;
- 2526 (v) a commercial;
- 2527 (vi) a documentary; or
- 2528 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the
- 2529 commission by administrative rule made in accordance with Subsection (54)(d); or
- 2530 (b) purchases, leases, or rentals of machinery or equipment by an establishment
- 2531 described in Subsection (54)(c) that is used for the production or postproduction of the
- 2532 following are subject to the taxes imposed by this chapter:
- 2533 (i) a live musical performance;
- 2534 (ii) a live news program; or
- 2535 (iii) a live sporting event;

2536 (c) the following establishments listed in the 1997 North American Industry  
2537 Classification System of the federal Executive Office of the President, Office of Management  
2538 and Budget, apply to Subsections (54)(a) and (b):  
2539 (i) NAICS Code 512110; or  
2540 (ii) NAICS Code 51219; and  
2541 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2542 commission may by rule:  
2543 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);  
2544 or  
2545 (ii) define:  
2546 (A) "commercial distribution";  
2547 (B) "live musical performance";  
2548 (C) "live news program"; or  
2549 (D) "live sporting event";  
2550 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but  
2551 on or before June 30, 2027, of tangible personal property that:  
2552 (i) is leased or purchased for or by a facility that:  
2553 (A) is an alternative energy electricity production facility;  
2554 (B) is located in the state; and  
2555 (C) (I) becomes operational on or after July 1, 2004; or  
2556 (II) has its generation capacity increased by one or more megawatts on or after July 1,  
2557 2004, as a result of the use of the tangible personal property;  
2558 (ii) has an economic life of five or more years; and  
2559 (iii) is used to make the facility or the increase in capacity of the facility described in  
2560 Subsection (55)(a)(i) operational up to the point of interconnection with an existing  
2561 transmission grid including:  
2562 (A) a wind turbine;  
2563 (B) generating equipment;  
2564 (C) a control and monitoring system;  
2565 (D) a power line;  
2566 (E) substation equipment;

- 2567 (F) lighting;
- 2568 (G) fencing;
- 2569 (H) pipes; or
- 2570 (I) other equipment used for locating a power line or pole; and
- 2571 (b) this Subsection (55) does not apply to:
  - 2572 (i) tangible personal property used in construction of:
    - 2573 (A) a new alternative energy electricity production facility; or
    - 2574 (B) the increase in the capacity of an alternative energy electricity production facility;
  - 2575 (ii) contracted services required for construction and routine maintenance activities;
- 2576 and
  - 2577 (iii) unless the tangible personal property is used or acquired for an increase in capacity
  - 2578 of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or
  - 2579 acquired after:
    - 2580 (A) the alternative energy electricity production facility described in Subsection
    - 2581 (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or
    - 2582 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described
    - 2583 in Subsection (55)(a)(iii);
    - 2584 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
    - 2585 on or before June 30, 2027, of tangible personal property that:
      - 2586 (i) is leased or purchased for or by a facility that:
        - 2587 (A) is a waste energy production facility;
        - 2588 (B) is located in the state; and
        - 2589 (C) (I) becomes operational on or after July 1, 2004; or
        - 2590 (II) has its generation capacity increased by one or more megawatts on or after July 1,
        - 2591 2004, as a result of the use of the tangible personal property;
        - 2592 (ii) has an economic life of five or more years; and
        - 2593 (iii) is used to make the facility or the increase in capacity of the facility described in
        - 2594 Subsection (56)(a)(i) operational up to the point of interconnection with an existing
        - 2595 transmission grid including:
          - 2596 (A) generating equipment;
          - 2597 (B) a control and monitoring system;

- 2598 (C) a power line;
- 2599 (D) substation equipment;
- 2600 (E) lighting;
- 2601 (F) fencing;
- 2602 (G) pipes; or
- 2603 (H) other equipment used for locating a power line or pole; and
- 2604 (b) this Subsection (56) does not apply to:
  - 2605 (i) tangible personal property used in construction of:
    - 2606 (A) a new waste energy facility; or
    - 2607 (B) the increase in the capacity of a waste energy facility;
  - 2608 (ii) contracted services required for construction and routine maintenance activities;
  - 2609 and
    - 2610 (iii) unless the tangible personal property is used or acquired for an increase in capacity
    - 2611 described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:
      - 2612 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as
      - 2613 described in Subsection (56)(a)(iii); or
      - 2614 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described
      - 2615 in Subsection (56)(a)(iii);
    - 2616 (57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on
    - 2617 or before June 30, 2027, of tangible personal property that:
      - 2618 (i) is leased or purchased for or by a facility that:
        - 2619 (A) is located in the state;
        - 2620 (B) produces fuel from alternative energy, including[~~:-(F)~~] methanol[;] or [~~(H)~~] ethanol;
      - 2621 and
        - 2622 (C) (I) becomes operational on or after July 1, 2004; or
        - 2623 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as
        - 2624 a result of the installation of the tangible personal property;
        - 2625 (ii) has an economic life of five or more years; and
        - 2626 (iii) is installed on the facility described in Subsection (57)(a)(i);
    - 2627 (b) this Subsection (57) does not apply to:
      - 2628 (i) tangible personal property used in construction of:

- 2629 (A) a new facility described in Subsection (57)(a)(i); or  
2630 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or  
2631 (ii) contracted services required for construction and routine maintenance activities;  
2632 and  
2633 (iii) unless the tangible personal property is used or acquired for an increase in capacity  
2634 described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:  
2635 (A) the facility described in Subsection (57)(a)(i) is operational; or  
2636 (B) the increased capacity described in Subsection (57)(a)(i) is operational;  
2637 (58) (a) subject to Subsection (58)(b) [~~or(c)~~], sales of tangible personal property or a  
2638 product transferred electronically to a person within this state if that tangible personal property  
2639 or product transferred electronically is subsequently shipped outside the state and incorporated  
2640 pursuant to contract into and becomes a part of real property located outside of this state; and  
2641 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other  
2642 state or political entity to which the tangible personal property is shipped imposes a sales, use,  
2643 gross receipts, or other similar transaction excise tax on the transaction against which the other  
2644 state or political entity allows a credit for sales and use taxes imposed by this chapter; [~~and~~]  
2645 [~~(c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,~~  
2646 ~~a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a~~  
2647 ~~refund.;~~]  
2648 [(i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;]  
2649 [(ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on  
2650 which the sale is made;]  
2651 [(iii) if the person did not claim the exemption allowed by this Subsection (58) for the  
2652 sale prior to filing for the refund;]  
2653 [(iv) for sales and use taxes paid under this chapter on the sale;]  
2654 [(v) in accordance with Section 59-1-1410; and]  
2655 [(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410,  
2656 if the person files for the refund on or before June 30, 2011;]  
2657 (59) purchases:  
2658 (a) of one or more of the following items in printed or electronic format:  
2659 (i) a list containing information that includes one or more[:(A)] names[:] or [(B)]

2660 addresses; or  
2661 (ii) a database containing information that includes one or more~~[-(A)]~~ names~~[-(A)]~~ or  
2662 ~~[(B)]~~ addresses; and  
2663 (b) used to send direct mail;  
2664 (60) redemptions or repurchases of a product by a person if that product was:  
2665 (a) delivered to a pawnbroker as part of a pawn transaction; and  
2666 (b) redeemed or repurchased within the time period established in a written agreement  
2667 between the person and the pawnbroker for redeeming or repurchasing the product;  
2668 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:  
2669 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;  
2670 and  
2671 (ii) has a useful economic life of one or more years; and  
2672 (b) the following apply to Subsection (61)(a):  
2673 (i) telecommunications enabling or facilitating equipment, machinery, or software;  
2674 (ii) telecommunications equipment, machinery, or software required for 911 service;  
2675 (iii) telecommunications maintenance or repair equipment, machinery, or software;  
2676 (iv) telecommunications switching or routing equipment, machinery, or software; or  
2677 (v) telecommunications transmission equipment, machinery, or software;  
2678 (62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible  
2679 personal property or a product transferred electronically that are used in the research and  
2680 development of alternative energy technology; and  
2681 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2682 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes  
2683 purchases of tangible personal property or a product transferred electronically that are used in  
2684 the research and development of alternative energy technology;  
2685 (63) (a) purchases of tangible personal property or a product transferred electronically  
2686 if:  
2687 (i) the tangible personal property or product transferred electronically is:  
2688 (A) purchased outside of this state;  
2689 (B) brought into this state at any time after the purchase described in Subsection  
2690 (63)(a)(i)(A); and

2691 (C) used in conducting business in this state; and  
2692 (ii) for:  
2693 (A) tangible personal property or a product transferred electronically other than the  
2694 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property  
2695 for a purpose for which the property is designed occurs outside of this state; or  
2696 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered  
2697 outside of this state;  
2698 (b) the exemption provided for in Subsection (63)(a) does not apply to:  
2699 (i) a lease or rental of tangible personal property or a product transferred electronically;  
2700 or  
2701 (ii) a sale of a vehicle exempt under Subsection (33); and  
2702 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for  
2703 purposes of Subsection (63)(a), the commission may by rule define what constitutes the  
2704 following:  
2705 (i) conducting business in this state if that phrase has the same meaning in this  
2706 Subsection (63) as in Subsection (24);  
2707 (ii) the first use of tangible personal property or a product transferred electronically if  
2708 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or  
2709 (iii) a purpose for which tangible personal property or a product transferred  
2710 electronically is designed if that phrase has the same meaning in this Subsection (63) as in  
2711 Subsection (24);  
2712 (64) sales of disposable home medical equipment or supplies if:  
2713 (a) a person presents a prescription for the disposable home medical equipment or  
2714 supplies;  
2715 (b) the disposable home medical equipment or supplies are used exclusively by the  
2716 person to whom the prescription described in Subsection (64)(a) is issued; and  
2717 (c) the disposable home medical equipment and supplies are listed as eligible for  
2718 payment under:  
2719 (i) Title XVIII, federal Social Security Act; or  
2720 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;  
2721 (65) sales:

- 2722 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit  
2723 District Act; or
- 2724 (b) of tangible personal property to a subcontractor of a public transit district, if the  
2725 tangible personal property is:
- 2726 (i) clearly identified; and  
2727 (ii) installed or converted to real property owned by the public transit district;
- 2728 (66) sales of construction materials:  
2729 (a) purchased on or after July 1, 2010;  
2730 (b) purchased by, on behalf of, or for the benefit of an international airport:  
2731 (i) located within a county of the first class; and  
2732 (ii) that has a United States customs office on its premises; and  
2733 (c) if the construction materials are:  
2734 (i) clearly identified;  
2735 (ii) segregated; and  
2736 (iii) installed or converted to real property:  
2737 (A) owned or operated by the international airport described in Subsection (66)(b); and  
2738 (B) located at the international airport described in Subsection (66)(b);
- 2739 (67) sales of construction materials:  
2740 (a) purchased on or after July 1, 2008;  
2741 (b) purchased by, on behalf of, or for the benefit of a new airport:  
2742 (i) located within a county of the second class; and  
2743 (ii) that is owned or operated by a city in which an airline as defined in Section  
2744 [59-2-102](#) is headquartered; and  
2745 (c) if the construction materials are:  
2746 (i) clearly identified;  
2747 (ii) segregated; and  
2748 (iii) installed or converted to real property:  
2749 (A) owned or operated by the new airport described in Subsection (67)(b);  
2750 (B) located at the new airport described in Subsection (67)(b); and  
2751 (C) as part of the construction of the new airport described in Subsection (67)(b);  
2752 (68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;

- 2753 (69) purchases and sales described in Section [63H-4-111](#);
- 2754 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and  
2755 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of  
2756 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration  
2757 lists a state or country other than this state as the location of registry of the fixed wing turbine  
2758 powered aircraft; or
- 2759 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul  
2760 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of  
2761 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration  
2762 lists a state or country other than this state as the location of registry of the fixed wing turbine  
2763 powered aircraft;
- 2764 (71) subject to Section [59-12-104.4](#), sales of a textbook for a higher education course:  
2765 (a) to a person admitted to an institution of higher education; and  
2766 (b) by a seller, other than a bookstore owned by an institution of higher education, if  
2767 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a  
2768 textbook for a higher education course;
- 2769 (72) a license fee or tax a municipality imposes in accordance with Subsection  
2770 [10-1-203\(5\)](#) on a purchaser from a business for which the municipality provides an enhanced  
2771 level of municipal services;
- 2772 (73) amounts paid or charged for construction materials used in the construction of a  
2773 new or expanding life science research and development facility in the state, if the construction  
2774 materials are:
- 2775 (a) clearly identified;  
2776 (b) segregated; and  
2777 (c) installed or converted to real property;
- 2778 (74) amounts paid or charged for:  
2779 (a) a purchase or lease of machinery and equipment that:  
2780 (i) are used in performing qualified research:  
2781 (A) as defined in Section 41(d), Internal Revenue Code; and  
2782 (B) in the state; and  
2783 (ii) have an economic life of three or more years; and

- 2784 (b) normal operating repair or replacement parts:
- 2785 (i) for the machinery and equipment described in Subsection (74)(a); and
- 2786 (ii) that have an economic life of three or more years;
- 2787 (75) a sale or lease of tangible personal property used in the preparation of prepared
- 2788 food if:
- 2789 (a) for a sale:
- 2790 (i) the ownership of the seller and the ownership of the purchaser are identical; and
- 2791 (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that
- 2792 tangible personal property prior to making the sale; or
- 2793 (b) for a lease:
- 2794 (i) the ownership of the lessor and the ownership of the lessee are identical; and
- 2795 (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible
- 2796 personal property prior to making the lease;
- 2797 (76) (a) purchases of machinery or equipment if:
- 2798 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,
- 2799 Gambling, and Recreation Industries, of the 2012 North American Industry Classification
- 2800 System of the federal Executive Office of the President, Office of Management and Budget;
- 2801 (ii) the machinery or equipment:
- 2802 (A) has an economic life of three or more years; and
- 2803 (B) is used by one or more persons who pay admission or user fees described in
- 2804 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and
- 2805 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:
- 2806 (A) amounts paid or charged as admission or user fees described in Subsection
- 2807 59-12-103(1)(f); and
- 2808 (B) subject to taxation under this chapter; and
- 2809 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2810 commission may make rules for verifying that 51% of a purchaser's sales revenue for the
- 2811 previous calendar quarter is:
- 2812 (i) amounts paid or charged as admission or user fees described in Subsection
- 2813 59-12-103(1)(f); and
- 2814 (ii) subject to taxation under this chapter;

- 2815 (77) purchases of a short-term lodging consumable by a business that provides  
2816 accommodations and services described in Subsection 59-12-103(1)(i);
- 2817 (78) amounts paid or charged to access a database:
- 2818 (a) if the primary purpose for accessing the database is to view or retrieve information  
2819 from the database; and
- 2820 (b) not including amounts paid or charged for a:
- 2821 (i) digital audiowork;
- 2822 (ii) digital audio-visual work; or
- 2823 (iii) digital book;
- 2824 (79) amounts paid or charged for a purchase or lease made by an electronic financial  
2825 payment service, of:
- 2826 (a) machinery and equipment that:
- 2827 (i) are used in the operation of the electronic financial payment service; and
- 2828 (ii) have an economic life of three or more years; and
- 2829 (b) normal operating repair or replacement parts that:
- 2830 (i) are used in the operation of the electronic financial payment service; and
- 2831 (ii) have an economic life of three or more years;
- 2832 (80) [~~beginning on April 1, 2013;~~] sales of a fuel cell as defined in Section 54-15-102;
- 2833 (81) amounts paid or charged for a purchase or lease of tangible personal property or a  
2834 product transferred electronically if the tangible personal property or product transferred  
2835 electronically:
- 2836 (a) is stored, used, or consumed in the state; and
- 2837 (b) is temporarily brought into the state from another state:
- 2838 (i) during a disaster period as defined in Section 53-2a-1202;
- 2839 (ii) by an out-of-state business as defined in Section 53-2a-1202;
- 2840 (iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and
- 2841 (iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;
- 2842 (82) sales of goods and services at a morale, welfare, and recreation facility, as defined  
2843 in Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and  
2844 Recreation Program;
- 2845 (83) amounts paid or charged for a purchase or lease of molten magnesium;

2846 ~~[(84) (a) except as provided in Subsection (84)(b), amounts paid or charged for a~~  
2847 ~~purchase or lease made by a drilling equipment manufacturer of machinery, equipment,~~  
2848 ~~materials, or normal operating repair or replacement parts:]~~  
2849 ~~[(i) that are used or consumed exclusively in the drilling equipment manufacturer's~~  
2850 ~~manufacturing process; and]~~  
2851 ~~[(ii) except for office:]~~  
2852 ~~[(A) equipment; or]~~  
2853 ~~[(B) supplies; and]~~  
2854 ~~[(b) beginning on July 1, 2015, and ending on June 30, 2017, a person may claim an~~  
2855 ~~exemption described in Subsection (84)(a) only by filing for a refund:]~~  
2856 ~~[(i) of 50% of the tax paid on the amounts paid or charged; and]~~  
2857 ~~[(ii) in accordance with Section 59-1-1410;]~~  
2858 ~~[(85) (84) amounts paid or charged for a purchase or lease made by a qualifying~~  
2859 ~~enterprise data center of machinery, equipment, or normal operating repair or replacement~~  
2860 ~~parts, if the machinery, equipment, or normal operating repair or replacement parts:~~  
2861 ~~(a) are used in the operation of the establishment; and~~  
2862 ~~(b) have an economic life of one or more years; [and]~~  
2863 ~~[(86) amounts paid or charged for a purchase or lease of machinery, equipment, or~~  
2864 ~~normal operating repair or replacement parts by a manufacturing facility that:]~~  
2865 ~~[(a) is an establishment, as the commission defines that term in accordance with Title~~  
2866 ~~63G, Chapter 3, Utah Administrative Rulemaking Act;]~~  
2867 ~~[(b) is described in NAICS Code 336111, Automobile Manufacturing, of the 2002~~  
2868 ~~North American Industry Classification System of the federal Executive Office of the~~  
2869 ~~President, Office of Management and Budget;]~~  
2870 ~~[(c) is located in the state; and]~~  
2871 ~~[(d) uses the machinery, equipment, or normal operating repair or replacement parts in~~  
2872 ~~the manufacturing process to manufacture an item sold as tangible personal property, as the~~  
2873 ~~commission may define that phrase in accordance with Title 63G, Chapter 3, Utah~~  
2874 ~~Administrative Rulemaking Act;]~~  
2875 ~~[(87) amounts paid or charged for a purchase or lease of equipment or normal~~  
2876 ~~operating repair or replacement parts with an economic life of less than three years by a~~

2877 manufacturing facility that:]

2878 [~~(a) is an establishment, as the commission defines that term in accordance with Title~~  
2879 ~~63G, Chapter 3, Utah Administrative Rulemaking Act;~~]

2880 [~~(b) is described in NAICS Code 325120, Industrial Gas Manufacturing, of the 2002~~  
2881 ~~North American Industry Classification System of the federal Executive Office of the~~  
2882 ~~President, Office of Management and Budget;~~]

2883 [~~(c) is located in the state; and~~]

2884 [~~(d) uses the equipment or normal operating repair or replacement parts to manufacture~~  
2885 ~~hydrogen;~~]

2886 [~~(88)~~ (85) sales of cleaning or washing of a vehicle, except for cleaning or washing of  
2887 a vehicle that includes cleaning or washing of the interior of the vehicle; and

2888 [~~(89)~~ (86) amounts paid or charged for a purchase or lease of machinery, equipment,  
2889 normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or  
2890 supplies used or consumed:

2891 (a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined  
2892 in Section [63M-4-701](#) located in the state;

2893 (b) if the machinery, equipment, normal operating repair or replacement parts,  
2894 catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:

2895 (i) the production process to produce gasoline or diesel fuel, or at which blendstock is  
2896 added to gasoline or diesel fuel;

2897 (ii) research and development;

2898 (iii) transporting, storing, or managing raw materials, work in process, finished  
2899 products, and waste materials produced from refining gasoline or diesel fuel, or adding  
2900 blendstock to gasoline or diesel fuel;

2901 (iv) developing or maintaining a road, tunnel, excavation, or similar feature used in  
2902 refining; or

2903 (v) preventing, controlling, or reducing pollutants from refining; and

2904 (c) beginning on July 1, 2021, if the person has obtained a form certified by the Office  
2905 of Energy Development under Subsection [63M-4-702\(2\)](#).

2906 Section 11. Section **59-12-104.5** is amended to read:

2907 **59-12-104.5. Revenue and Taxation Interim Committee review of sales and use**

2908 **taxes.**

2909 The Revenue and Taxation Interim Committee shall:

2910 (1) review Subsection [59-12-104](#)(28) before October 1 of the year after the year in  
2911 which Congress permits a state to participate in the special supplemental nutrition program  
2912 under 42 U.S.C. Sec. 1786 even if state or local sales taxes are collected within the state on  
2913 purchases of food under that program; and

2914 (2) review Subsection [59-12-104](#)(21) before October 1 of the year after the year in  
2915 which Congress permits a state to participate in the SNAP as defined in Section [35A-1-102](#),  
2916 even if state or local sales taxes are collected within the state on purchases of food under that  
2917 program[; ~~and~~].

2918 [~~(3) on or before November 30;~~]

2919 [~~(a) require the Governor's Office of Economic Development to provide the report  
2920 described in Section [63N-1-302](#)(2);]~~]

2921 [~~(b) review for each exemption described in Subsection [59-12-104](#)(86) and (87);]~~]

2922 [~~(i) the cost of the exemption;~~]

2923 [~~(ii) the purpose and effectiveness of the exemption; and]~~]

2924 [~~(iii) the extent to which the state benefits from the exemption; and]~~]

2925 [~~(c) make recommendations concerning whether the exemptions described in  
2926 Subsections [59-12-104](#)(86) and (87) should be continued, modified, or repealed.]~~]

2927 Section 12. Section **63I-2-259** is amended to read:

2928 **63I-2-259. Repeal dates -- Title 59.**

2929 [~~Subsection [59-2-1007](#)(14) is repealed on December 31, 2018.]~~]

2930 (1) Section [59-7-614.5](#) is repealed on December 31, 2021.

2931 (2) Section [59-7-614.10](#) is repealed on December 31, 2021.

2932 (3) Section [59-10-1037](#) is repealed on December 31, 2021.

2933 (4) Section [59-10-1108](#) is repealed on December 31, 2021.

2934 Section 13. Section **63I-2-263** is amended to read:

2935 **63I-2-263. Repeal dates, Title 63A to Title 63N.**

2936 [~~(1) Section [63A-5-227](#) is repealed on January 1, 2018.]~~]

2937 [~~(2)~~] (1) Section [63H-7a-303](#) is repealed on July 1, 2022.

2938 [~~(3)~~] (2) On July 1, 2019:

2939 (a) in Subsection 63J-1-206(3)(c)(i), the language that states "(i) Except as provided in  
2940 Subsection (3)(c)(ii)" is repealed; and

2941 (b) Subsection 63J-1-206(3)(c)(ii) is repealed.

2942 (3) Section 63N-2-213 is repealed on December 31, 2021.

2943 (4) Subsection 63N-3-109(2)(f)(i)(B) is repealed July 1, 2020.

2944 (5) Section 63N-3-110 is repealed July 1, 2020.

2945 Section 14. Section 63M-4-702 is amended to read:

2946 **63M-4-702. Refiner gasoline standard reporting -- Office of Energy Development**  
2947 **certification of sales and use tax exemption eligibility.**

2948 (1) (a) Beginning on July 1, 2021, a refiner that seeks to be eligible for a sales and use  
2949 tax exemption under Subsection 59-12-104~~[(89)]~~(86) shall annually report to the office  
2950 whether the refiner's facility that is located within the state will have an average gasoline sulfur  
2951 level of 10 parts per million (ppm) or less using the formulas prescribed in 40 C.F.R. Sec.  
2952 80.1603, excluding the offset for credit use and transfer as prescribed in 40 C.F.R. Sec.  
2953 80.1616.

2954 (b) Fuels for which a final destination outside Utah can be demonstrated or that are not  
2955 subject to the standards and requirements of 40 C.F.R. Sec. 80.1603 as specified in 40 C.F.R.  
2956 Sec. 80.1601 are not subject to the reporting provisions under Subsection (1)(a).

2957 (2) (a) Beginning on July 1, 2021, the office shall annually certify that the refiner is  
2958 eligible for the sales and use tax exemption under Subsection 59-12-104~~[(89)]~~(86):

2959 (i) on a form provided by the State Tax Commission that shall be retained by the  
2960 refiner claiming the sales and use tax exemption under Subsection 59-12-104~~[(89)]~~(86);

2961 (ii) if the refiner's refinery that is located within the state had an average sulfur level of  
2962 10 parts per million (ppm) or less as reported under Subsection (1) in the previous calendar  
2963 year; and

2964 (iii) before a taxpayer is allowed the sales and use tax exemption under Subsection  
2965 59-12-104~~[(89)]~~(86).

2966 (b) The certification provided by the office under Subsection (2)(a) shall be renewed  
2967 annually.

2968 (c) The office:

2969 (i) shall accept a copy of a report submitted by a refiner to the Environmental

2970 Protection Agency under 40 C.F.R. Sec. 80.1652 as sufficient evidence of the refiner's average  
2971 gasoline sulfur level; or

2972 (ii) may establish another reporting mechanism through rules made under Subsection  
2973 (3).

2974 (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2975 office may make rules to implement this section.

2976 Section 15. Section **63N-2-104** is amended to read:

2977 **63N-2-104. Creation of economic development zones -- Tax credits -- Assignment**  
2978 **of tax credit.**

2979 (1) The office, with advice from the board, may create an economic development zone  
2980 in the state if the following requirements are satisfied:

2981 (a) the area is zoned commercial, industrial, manufacturing, business park, research  
2982 park, or other appropriate business related use in a community-approved master plan;

2983 (b) the request to create a development zone has first been approved by an appropriate  
2984 local government entity; and

2985 (c) local incentives have been or will be committed to be provided within the area.

2986 (2) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
2987 the office shall make rules establishing the requirements for a business entity or local  
2988 government entity to qualify for a tax credit for a new commercial project in a development  
2989 zone under this part.

2990 (b) The office shall ensure that the requirements described in Subsection (2)(a) include  
2991 the following:

2992 (i) the new commercial project is within the development zone;

2993 (ii) the new commercial project includes direct investment within the geographic  
2994 boundaries of the development zone;

2995 (iii) the new commercial project brings new incremental jobs to Utah;

2996 (iv) the new commercial project includes the creation of high paying jobs in the state,  
2997 significant capital investment in the state, or significant purchases from vendors, contractors, or  
2998 service providers in the state, or a combination of these three economic factors;

2999 (v) the new commercial project generates new state revenues; and

3000 (vi) a business entity, a local government entity, or a community reinvestment agency

3001 to which a local government entity assigns a tax credit under this section meets the  
3002 requirements of Section [63N-2-105](#).

3003 (3) (a) ~~The~~ Except as provided in Subsection (3)(d), the office, after consultation with  
3004 the board, may enter into a written agreement with a business entity or local government entity  
3005 authorizing a tax credit to the business entity or local government entity if the business entity or  
3006 local government entity meets the requirements described in this section.

3007 (b) (i) With respect to a new commercial project, the office may authorize a tax credit  
3008 to a business entity or a local government entity, but not both.

3009 (ii) In determining whether to authorize a tax credit with respect to a new commercial  
3010 project to a business entity or a local government entity, the office shall authorize the tax credit  
3011 in a manner that the office determines will result in providing the most effective incentive for  
3012 the new commercial project.

3013 (c) (i) Except as provided in Subsection (3)(c)(ii), the office may not authorize or  
3014 commit to authorize a tax credit that exceeds:

3015 (A) 50% of the new state revenues from the new commercial project in any given year;  
3016 or

3017 (B) 30% of the new state revenues from the new commercial project over the lesser of  
3018 the life of a new commercial project or 20 years.

3019 (ii) If the eligible business entity makes capital expenditures in the state of  
3020 \$1,500,000,000 or more associated with a new commercial project, the office may:

3021 (A) authorize or commit to authorize a tax credit not exceeding 60% of new state  
3022 revenues over the lesser of the life of the project or 20 years, if the other requirements of this  
3023 part are met;

3024 (B) establish the year that state revenues and incremental jobs baseline data are  
3025 measured for purposes of an incentive under this Subsection (3)(c)(ii); and

3026 (C) offer an incentive under this Subsection (3)(c)(ii) or modify an existing incentive  
3027 previously granted under Subsection (3)(c)(i) that is based on the baseline measurements  
3028 described in Subsection (3)(c)(ii)(B), except that the incentive may not authorize or commit to  
3029 authorize a tax credit of more than 60% of new state revenues in any one year.

3030 (d) On or after January 1, 2019, the office may not:

3031 (i) enter into a new written agreement under Subsection (3)(a) with a business entity or

3032 local government entity; or

3033 (ii) modify an existing written agreement described in Subsection (3)(a) to increase the  
3034 maximum amount of tax credit a business entity or local government entity may claim or to  
3035 extend the length of time a business entity or local government entity may claim a tax credit.

3036 [~~(d)~~] (e) (i) A local government entity may by resolution assign a tax credit authorized  
3037 by the office to a community reinvestment agency.

3038 (ii) The local government entity shall provide a copy of the resolution described in  
3039 Subsection (3)[~~(d)~~](e)(i) to the office.

3040 (iii) If a local government entity assigns a tax credit to a community reinvestment  
3041 agency, the written agreement described in Subsection (3)(a) shall:

3042 (A) be between the office, the local government entity, and the community  
3043 reinvestment agency;

3044 (B) establish the obligations of the local government entity and the community  
3045 reinvestment agency; and

3046 (C) establish the extent to which any of the local government entity's obligations are  
3047 transferred to the community reinvestment agency.

3048 (iv) If a local government entity assigns a tax credit to a community reinvestment  
3049 agency:

3050 (A) the community reinvestment agency shall retain records as described in Subsection  
3051 (4)(d); and

3052 (B) a tax credit certificate issued in accordance with Section [~~63N-2-106~~] [63N-2-105](#)  
3053 shall list the community reinvestment agency as the named applicant.

3054 (4) The office shall ensure that the written agreement described in Subsection (3):

3055 (a) specifies the requirements that the business entity or local government entity shall  
3056 meet to qualify for a tax credit under this part;

3057 (b) specifies the maximum amount of tax credit that the business entity or local  
3058 government entity may be authorized for a taxable year and over the life of the new commercial  
3059 project;

3060 (c) establishes the length of time the business entity or local government entity may  
3061 claim a tax credit;

3062 (d) requires the business entity or local government entity to retain records supporting a

3063 claim for a tax credit for at least four years after the business entity or local government entity  
3064 claims a tax credit under this part; and

3065 (e) requires the business entity or local government entity to submit to audits for  
3066 verification of the tax credit claimed.

3067 Section 16. Section **63N-2-106** is amended to read:

3068 **63N-2-106. Reports -- Posting monthly and annual reports -- Audit and study of**  
3069 **tax credits.**

3070 (1) The office shall include the following information in the annual written report  
3071 described in Section [63N-1-301](#):

3072 (a) the office's success in attracting new commercial projects to development zones  
3073 under this part and the corresponding increase in new incremental jobs;

3074 (b) how many new incremental jobs and high paying jobs are employees of a company  
3075 that received tax credits under this part, including the number of employees who work for a  
3076 third-party rather than directly for a company, receiving the tax credits under this part;

3077 (c) the estimated amount of tax credit commitments made by the office and the period  
3078 of time over which tax credits will be paid;

3079 (d) the economic impact on the state from new state revenues and the provision of tax  
3080 credits under this part;

3081 (e) the estimated costs and economic benefits of the tax credit commitments made by  
3082 the office;

3083 (f) the actual costs and economic benefits of the tax credit commitments made by the  
3084 office; and

3085 (g) tax credit commitments made by the office, with the associated calculation.

3086 (2) Each month, the office shall post on its website and on a state website:

3087 (a) the new tax credit commitments made by the office during the previous month; and

3088 (b) the estimated costs and economic benefits of those tax credit commitments.

3089 (3) (a) On or before November 1, 2014, and every three years after November 1, 2014,  
3090 the office shall:

3091 (i) conduct an audit of the tax credits allowed under Section [63N-2-105](#);

3092 (ii) study the tax credits allowed under Section [63N-2-105](#); and

3093 (iii) make recommendations concerning whether the tax credits should be continued,

3094 modified, or repealed.

3095 (b) The audit shall include an evaluation of:

3096 (i) the cost of the tax credits;

3097 (ii) the purposes and effectiveness of the tax credits;

3098 (iii) the extent to which the state benefits from the tax credits; and

3099 (iv) the state's return on investment under this part measured by new state revenues,  
3100 compared with the costs of tax credits provided and GOED's expenses in administering this  
3101 part.

3102 (c) The office shall provide the results of the audit described in this Subsection (3)[:  
3103 (†)] in the written annual report described in Subsection (1)[; and].

3104 [~~(ii) as part of the reviews described in Sections 59-7-159 and 59-10-137.~~]

3105 Section 17. Section **63N-2-213** is amended to read:

3106 **63N-2-213. State tax credits.**

3107 (1) The office shall certify a business entity's eligibility for a tax credit described in this  
3108 section.

3109 (2) A business entity seeking to receive a tax credit as provided in this section shall  
3110 provide the office with:

3111 (a) an application for a tax credit certificate in a form approved by the office, including  
3112 a certification, by an officer of the business entity, of a signature on the application; and

3113 (b) documentation that demonstrates the business entity has met the requirements to  
3114 receive the tax credit.

3115 (3) If, after review of an application and documentation provided by a business entity  
3116 as described in Subsection (2), the office determines that the application and documentation are  
3117 inadequate to provide a reasonable justification for authorizing the tax credit, the office shall:

3118 (a) deny the tax credit; or

3119 (b) inform the business entity that the application or documentation was inadequate  
3120 and ask the business entity to submit additional documentation.

3121 (4) If, after review of an application and documentation provided by a business entity  
3122 as described in Subsection (2), the office determines that the application and documentation  
3123 provide reasonable justification for authorizing a tax credit, the office shall:

3124 (a) determine the amount of the tax credit to be granted to the business entity;

- 3125 (b) issue a tax credit certificate to the business entity; and
- 3126 (c) provide a duplicate copy of the tax credit certificate to the State Tax Commission.
- 3127 (5) A business entity may not claim a tax credit [~~under~~] described in this section unless
- 3128 the business entity has a tax credit certificate issued by the office.
- 3129 (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 3130 office shall make rules describing:
  - 3131 (a) the form and content of an application for a tax credit certificate under this section;
  - 3132 (b) the documentation requirements for a business entity to receive a tax credit
  - 3133 certificate under this section; and
  - 3134 (c) administration of the program, including relevant timelines and deadlines.
- 3135 (7) Subject to the limitations of Subsections (8) through (10), and if the requirements
- 3136 of this part are met, the following nonrefundable tax credits against a tax under Title 59,
- 3137 Chapter 7, Corporate Franchise and Income Taxes, or Title 59, Chapter 10, Individual Income
- 3138 Tax Act, are applicable in an enterprise zone:
  - 3139 (a) a tax credit of \$750 may be claimed by a business entity for each new full-time
  - 3140 employee position created within the enterprise zone;
  - 3141 (b) an additional \$500 tax credit may be claimed if the new full-time employee position
  - 3142 created within the enterprise zone pays at least 125% of:
    - 3143 (i) the county average monthly nonagricultural payroll wage for the respective industry
    - 3144 as determined by the Department of Workforce Services; or
    - 3145 (ii) if the county average monthly nonagricultural payroll wage is not available for the
    - 3146 respective industry, the total average monthly nonagricultural payroll wage in the respective
    - 3147 county where the enterprise zone is located;
  - 3148 (c) an additional tax credit of \$750 may be claimed if the new full-time employee
  - 3149 position created within the enterprise zone is in a business entity that adds value to agricultural
  - 3150 commodities through manufacturing or processing;
  - 3151 (d) an additional tax credit of \$200 may be claimed for two consecutive years for each
  - 3152 new full-time employee position created within the enterprise zone that is filled by an
  - 3153 employee who is insured under an employer-sponsored health insurance program if the
  - 3154 employer pays at least 50% of the premium cost for the year for which the credit is claimed;
  - 3155 (e) a tax credit of 25% of the first \$200,000 spent on rehabilitating a building in the

3156 enterprise zone that has been vacant for two years or more; and

3157 (f) an annual investment tax credit of 10% of the first \$250,000 in investment, and 5%  
3158 of the next \$1,000,000 qualifying investment in plant, equipment, or other depreciable  
3159 property.

3160 (8) (a) Subject to the limitations of Subsection (8)(b), a business entity claiming a tax  
3161 credit under Subsections (7)(a) through (d) may claim the tax credit for no more than 30  
3162 full-time employee positions in a taxable year.

3163 (b) A business entity that received a tax credit for one or more new full-time employee  
3164 positions under Subsections (7)(a) through (d) in a prior taxable year may claim a tax credit for  
3165 a new full-time employee position in a subsequent taxable year under Subsections (7)(a)  
3166 through (d) if:

3167 (i) the business entity has created a new full-time position within the enterprise zone;  
3168 and

3169 (ii) the total number of full-time employee positions at the business entity at any point  
3170 during the tax year for which the tax credit is being claimed is greater than the highest number  
3171 of full-time employee positions that existed at the business entity in the previous three taxable  
3172 years.

3173 (c) Construction jobs are not eligible for the tax credits under Subsections (7)(a)  
3174 through (d).

3175 (9) (a) Except as provided in Subsection (9)(b), a business entity may only claim a tax  
3176 credit described in this section for a taxable year that begins on or before December 31, 2018.

3177 ~~[(9) (b) If the amount of a tax credit [under] described in this section exceeds a~~  
3178 ~~business entity's tax liability under this chapter for a taxable year, the business entity may carry~~  
3179 ~~forward the amount of the tax credit exceeding the liability for a period that does not exceed~~  
3180 ~~the next three taxable years.~~

3181 ~~(10) [Tax credits] A business entity primarily engaged in retail trade or a public~~  
3182 ~~utilities business may not claim a tax credit under Subsections (7)(a) through (f) [may not be~~  
3183 ~~claimed by a business entity primarily engaged in retail trade or by a public utilities business].~~

3184 (11) A business entity that has no employees:

3185 (a) may not claim tax credits under Subsections (7)(a) through (d); and

3186 (b) may claim tax credits under Subsections (7)(e) through (f).

3187 (12) A business entity may not claim or carry forward a tax credit available under this  
3188 part for a taxable year during which the business entity has claimed the targeted business  
3189 income tax credit available under Section [63N-2-305](#).

3190 ~~[(13) (a) On or before November 30, 2018, and every three years after 2018, the~~  
3191 ~~Revenue and Taxation Interim Committee shall review the tax credits provided by this section~~  
3192 ~~and make recommendations concerning whether the tax credits should be continued, modified,~~  
3193 ~~or repealed.]~~

3194 ~~[(b) In conducting the review required by Subsection (13)(a), the Revenue and~~  
3195 ~~Taxation Interim Committee shall:]~~

3196 ~~[(i) schedule time on at least one committee agenda to conduct the review;]~~

3197 ~~[(ii) invite state agencies, individuals, and organizations concerned with the credits~~  
3198 ~~under review to provide testimony;]~~

3199 ~~[(iii) ensure that the recommendations described in this section include an evaluation~~  
3200 ~~of:]~~

3201 ~~[(A) the cost of the tax credits to the state;]~~

3202 ~~[(B) the purpose and effectiveness of the tax credits; and]~~

3203 ~~[(C) the extent to which the state benefits from the tax credits; and]~~

3204 ~~[(iv) undertake other review efforts as determined by the chairs of the Revenue and~~  
3205 ~~Taxation Interim Committee:]~~

3206 Section 18. Section [63N-8-103](#) is amended to read:

3207 **[63N-8-103. Motion Picture Incentive Account created -- Cash rebate incentives --](#)**  
3208 **Refundable tax credit incentives.**

3209 (1) (a) There is created within the General Fund a restricted account known as the  
3210 Motion Picture Incentive Account, which the office shall use to provide cash rebate incentives  
3211 for state-approved productions by a motion picture company.

3212 (b) All interest generated from investment of money in the restricted account shall be  
3213 deposited in the restricted account.

3214 (c) The restricted account shall consist of an annual appropriation by the Legislature.

3215 (d) The office shall:

3216 (i) with the advice of the board, administer the restricted account; and

3217 (ii) make payments from the restricted account as required under this section.

3218 (e) The cost of administering the restricted account shall be paid from money in the  
3219 restricted account.

3220 (2) (a) A motion picture company or digital media company seeking disbursement of  
3221 an incentive allowed under an agreement with the office shall follow the procedures and  
3222 requirements of this Subsection (2).

3223 (b) The motion picture company or digital media company shall provide the office with  
3224 a report identifying and documenting the dollars left in the state and new state revenues  
3225 generated by the motion picture company or digital media company for its state-approved  
3226 production, including any related tax returns by the motion picture company, payroll company,  
3227 digital media company, or loan-out corporation under Subsection (2)(d).

3228 (c) For a motion picture company, an independent certified public accountant shall:

3229 (i) review the report submitted by the motion picture company; and

3230 (ii) attest to the accuracy and validity of the report, including the amount of dollars left  
3231 in the state.

3232 (d) The motion picture company, digital media company, payroll company, or loan-out  
3233 corporation shall provide the office with a document that expressly directs and authorizes the  
3234 State Tax Commission to disclose the entity's tax returns and other information concerning the  
3235 entity that would otherwise be subject to confidentiality under Section 59-1-403 or Section  
3236 6103, Internal Revenue Code, to the office.

3237 (e) The office shall submit the document described in Subsection (2)(d) to the State  
3238 Tax Commission.

3239 (f) Upon receipt of the document described in Subsection (2)(d), the State Tax  
3240 Commission shall provide the office with the information requested by the office that the  
3241 motion picture company, digital media company, payroll company, or loan-out corporation  
3242 directed or authorized the State Tax Commission to provide to the office in the document  
3243 described in Subsection (2)(d).

3244 (g) Subject to Subsection (3), for a motion picture company the office shall:

3245 (i) review the report from the motion picture company described in Subsection (2)(b)  
3246 and verify that [it] the report was reviewed by an independent certified public accountant as  
3247 described in Subsection (2)(c); and

3248 (ii) based upon the certified public accountant's attestation under Subsection (2)(c),

3249 determine the amount of the incentive that the motion picture company is entitled to under its  
3250 agreement with the office.

3251 (h) Subject to Subsection (3), for a digital media company, the office shall:

3252 (i) ensure the digital media project results in new state revenue; and

3253 (ii) based upon review of new state revenue, determine the amount of the incentive that  
3254 a digital media company is entitled to under its agreement with the office.

3255 (i) Subject to Subsection (3), if the incentive is in the form of a cash rebate, the office  
3256 shall pay the incentive from the restricted account to the motion picture company,  
3257 notwithstanding Subsections 51-5-3(23)(b) and 63J-1-104(4)(c).

3258 (j) If the incentive is in the form of a refundable tax credit under Section 59-7-614.5 or  
3259 59-10-1108, the office shall:

3260 (i) issue a tax credit certificate to the motion picture company or digital media  
3261 company; and

3262 (ii) provide a duplicate copy of the tax credit certificate to the State Tax Commission.

3263 (k) A motion picture company or digital media company may not claim a motion  
3264 picture tax credit under Section 59-7-614.5 or 59-10-1108 unless the motion picture company  
3265 or digital media company has received a tax credit certificate for the claim issued by the office  
3266 under Subsection (2)(j)(i).

3267 (l) A motion picture company or digital media company may claim a motion picture  
3268 tax credit on its tax return for the amount listed on the tax credit certificate issued by the office.

3269 (m) A motion picture company or digital media company that claims a tax credit under  
3270 Subsection (2)(l) shall retain the tax credit certificate and all supporting documentation in  
3271 accordance with Subsection 63N-8-104(6).

3272 (3) (a) Subject to Subsection (3)(b), the office may issue \$6,793,700 in tax credit  
3273 certificates under this part in a fiscal year.

3274 (b) [Hf] (i) Subject to Subsection (3)(b)(ii), if the office does not issue tax credit  
3275 certificates in a fiscal year totaling the amount authorized under Subsection (3)(a), it may carry  
3276 over that amount for issuance in subsequent fiscal years.

3277 (ii) A motion picture company or digital media company may use a tax credit  
3278 certificate issued in a fiscal year beginning on or after July 1, 2018, to claim a tax credit under  
3279 Section 59-7-614.5 or 59-10-1108 only for a taxable year that begins on or before December

3280 31, 2018.

3281 Section 19. **Repealer.**

3282 This bill repeals:

3283 Section [59-12-104.7](#), **Reporting by purchaser of certain sales and use tax exempt**  
3284 **purchases.**

3285 Section [63N-1-302](#), **Reporting of certain sales and use tax exempt purchases.**

3286 Section 20. **Retrospective operation and effective date.**

3287 (1) Except as provided in Subsections (2) through (3), this bill has retrospective  
3288 operation for a taxable year beginning on or after January 1, 2018.

3289 (2) The amendments to Sections [59-7-159](#), [59-10-137](#), [63I-2-259](#), [63I-2-263](#),  
3290 [63N-2-104](#), and [63N-2-106](#) take effect on May 8, 2018.

3291 (3) The amendments to Sections [59-12-102](#), [59-12-104](#), [59-12-104.5](#), and [63M-4-702](#)  
3292 and the repeal of Sections [59-12-104.7](#) and [63N-1-302](#) take effect on July 1, 2019.